2021-22 SESSION

SENATE
THIRD READING PACKET

TUESDAY, SEPTEMBER 07, 2021

JONAS AUSTIN
Director

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Tuesday, September 07, 2021.

Note	Measure	Author	Location
+	SB 2	Bradford	Unfinished Business
	SB 83	Allen	Unfinished Business
	SB 368	Limón	Unfinished Business
	SB 436	Dahle	Unfinished Business
	SB 535	Limón	Unfinished Business
	SB 660	Newman	Unfinished Business
	SB 790	Stern	Unfinished Business
	SCR 60	Nielsen	Senate Bills - Third Reading File
	SCR 61	Dahle	Senate Bills - Third Reading File
	SJR 1	Allen	Unfinished Business
	SR 47	Borgeas	Senate Bills - Third Reading File
	SR 52	Min	Senate Bills - Third Reading File
	SR 58	Pan	Senate Bills - Third Reading File
	SR 59	Becker	Senate Bills - Third Reading File
+	AB 14	Aguiar-Curry	Assembly Bills - Third Reading File
	AB 39	Chau	Assembly Bills - Third Reading File
	AB 41	Wood	Assembly Bills - Third Reading File
	AB 43	Friedman	Assembly Bills - Third Reading File
+	AB 45	Aguiar-Curry	Assembly Bills - Third Reading File
+	AB 46	Luz Rivas	Assembly Bills - Third Reading File
	AB 57	Gabriel	Special Consent Calendar No.12
	AB 61	Gabriel	Special Consent Calendar No.12
	AB 68	Quirk-Silva	Special Consent Calendar No.12
	AB 74	Lorena Gonzalez	Assembly Bills - Third Reading File
	AB 105	Holden	Assembly Bills - Third Reading File
+	AB 107	Salas	Assembly Bills - Third Reading File
+	AB 123	Lorena Gonzalez	Assembly Bills - Third Reading File
	AB 215	Chiu	Assembly Bills - Third Reading File
+	AB 229	Holden	Assembly Bills - Third Reading File
	AB 252	Robert Rivas	Assembly Bills - Third Reading File
	AB 260	Stone	Assembly Bills - Third Reading File
	AB 262	Patterson	Special Consent Calendar No.12
	AB 304	Quirk	Assembly Bills - Third Reading File
	AB 316	Cooper	Assembly Bills - Third Reading File
	AB 334	Mullin	Assembly Bills - Third Reading File
	AB 359	Cooper	Special Consent Calendar No.12
	AB 362	Quirk-Silva	Assembly Bills - Third Reading File
	AB 364	Rodriguez	Assembly Bills - Third Reading File
	AB 367	Cristina Garcia	Assembly Bills - Third Reading File
	AB 379	Gallagher	Special Consent Calendar No.12
	AB 391	Villapudua	Special Consent Calendar No.12
	AB 392	Nazarian	Assembly Bills - Third Reading File
	AB 396	Gabriel	Assembly Bills - Third Reading File
+	AB 438	Reyes	Assembly Bills - Third Reading File
	AB 451	Arambula	Assembly Bills - Third Reading File
	AB 462	Carrillo	Assembly Bills - Third Reading File

\+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	AB 490	Gipson	Assembly Bills - Third Reading File
+	AB 515	Chen	Assembly Bills - Third Reading File
	AB 526	Wood	Assembly Bills - Third Reading File
	AB 527	Wood	Assembly Bills - Third Reading File
RA	AB 532	Wood	Assembly Bills - Third Reading File
	AB 539	Cooley	Assembly Bills - Third Reading File
+	AB 571	Mayes	Assembly Bills - Third Reading File
	AB 602	Grayson	Assembly Bills - Third Reading File
	AB 628	Eduardo Garcia	Special Consent Calendar No.12
	AB 634	Carrillo	Assembly Bills - Third Reading File
	AB 653	Waldron	Special Consent Calendar No.12
RA	AB 749	Nazarian	Special Consent Calendar No.12
	AB 779	Bigelow	Assembly Bills - Third Reading File
	AB 787	Gabriel	Special Consent Calendar No.12
	AB 794	Carrillo	Assembly Bills - Third Reading File
	AB 811	Luz Rivas	Assembly Bills - Third Reading File
	AB 815	Luz Rivas	Special Consent Calendar No.12
	AB 817	Wood	Assembly Bills - Third Reading File
	AB 825	Levine	Assembly Bills - Third Reading File
	AB 826	Irwin	Assembly Bills - Third Reading File
	AB 829	Levine	Assembly Bills - Third Reading File
	AB 844	Grayson	Assembly Bills - Third Reading File
	AB 857	Kalra	Assembly Bills - Third Reading File
	AB 858	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 861	Bennett	Assembly Bills - Third Reading File
RA	AB 865	Quirk-Silva	Special Consent Calendar No.12
	AB 887	Levine	Special Consent Calendar No.12
	AB 888	Levine	Special Consent Calendar No.12
	AB 896	Bennett	Assembly Bills - Third Reading File
	AB 927	Medina	Special Consent Calendar No.12
	AB 928	Berman	Special Consent Calendar No.12
	AB 955	Quirk	Assembly Bills - Third Reading File
	AB 965	Levine	Assembly Bills - Third Reading File
	AB 989	Gabriel	Assembly Bills - Third Reading File
	AB 1003	Lorena Gonzalez	Special Consent Calendar No.12
	AB 1015	Blanca Rubio	Assembly Bills - Third Reading File
	AB 1023	Flora	Assembly Bills - Third Reading File
	AB 1035	Salas	Assembly Bills - Third Reading File
	AB 1036	Eduardo Garcia	Special Consent Calendar No.12
	AB 1057	Petrie-Norris	Assembly Bills - Third Reading File
	AB 1074	Lorena Gonzalez	Assembly Bills - Third Reading File
	AB 1102	Low	Assembly Bills - Third Reading File
	AB 1110	Robert Rivas	Special Consent Calendar No.12
	AB 1111	Berman	Special Consent Calendar No.12
	AB 1150	Frazier	Assembly Bills - Third Reading File
+	AB 1171	Cristina Garcia	Assembly Bills - Third Reading File
+	AB 1173	Cooper	Assembly Bills - Third Reading File
	AB 1184	Chiu	Assembly Bills - Third Reading File
	AB 1185	Cervantes	Special Consent Calendar No.12
	AB 1207	Akilah Weber	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
RA	AB 1221	Flora	Assembly Bills - Third Reading File
	AB 1238	Ting	Assembly Bills - Third Reading File
	AB 1243	Blanca Rubio	Special Consent Calendar No.12
	AB 1259	Chiu	Assembly Bills - Third Reading File
	AB 1261	Burke	Special Consent Calendar No.12
	AB 1273	Rodriguez	Assembly Bills - Third Reading File
	AB 1283	Stone	Assembly Bills - Third Reading File
RA	AB 1294	Quirk	Special Consent Calendar No.12
	AB 1320	Bauer-Kahan	Special Consent Calendar No.12
	AB 1326	Arambula	Assembly Bills - Third Reading File
	AB 1330	Frazier	Assembly Bills - Third Reading File
	AB 1346	Berman	Assembly Bills - Third Reading File
	AB 1384	Gabriel	Assembly Bills - Third Reading File
	AB 1390	Boerner Horvath	Special Consent Calendar No.12
	AB 1423	Daly	Assembly Bills - Third Reading File
	AB 1535	Committee on Business and Professions	Assembly Bills - Third Reading File
	AB 1586	Committee on Governmental Organization	Assembly Bills - Third Reading File
	AB 1589	Committee on Governmental Organization	Assembly Bills - Third Reading File
	ACR 7	Salas	Assembly Bills - Third Reading File
	ACR 10	Seyarto	Assembly Bills - Third Reading File
	ACR 13	Seyarto	Assembly Bills - Third Reading File
	ACR 37	Seyarto	Assembly Bills - Third Reading File
	ACR 98	Aguiar-Curry	Assembly Bills - Third Reading File
	ACR 101	Seyarto	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

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

UNFINISHED BUSINESS

Bill No: SB 2
Author: Bradford (D) and Atkins (D), et al.
Amended: 9/1/21
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 4/13/21
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 7-2, 4/27/21
AYES: Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Umberg, Caballero

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

SENATE FLOOR: 26-9, 5/26/21
AYES: Allen, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Archuleta, Caballero, Glazer, Hurtado, Newman

ASSEMBLY FLOOR: 49-21, 9/3/21 - See last page for vote

SUBJECT: Peace officers: certification: civil rights

SOURCE: ACLU of California
Alliance for Boys and Men of Color
Anti-Police Terror Project
Black Lives Matter Los Angeles
California Families United 4 Justice

Communities United for Restorative Youth Justice
PolicyLink
STOP Coalition
UDW/AFSCME Local 3930
Youth Justice Coalition

DIGEST: This bill (1) grants new powers to the Commission on Peace Officer Standards and Training (POST) to investigate and determine peace officer fitness and to decertify officers who engage in "serious misconduct"; and (2) makes changes to the Bane Civil Rights Act to limit immunity as specified.

Assembly Amendments:

1) Specify that a person "convicted of a crime" for purposes of disqualification immediately upon entry of a plea of guilty or nolo contendere to, or upon being found guilty by a trier of fact of, a felony offense, including an offense that may be charged as a misdemeanor or felony and that was charged as a felony at the time of the conviction.

2) State that effective January 1, 2022, any person who has been convicted of specified crimes paragraph shall not regain eligibility for peace officer employment based upon the nature of any sentence ordered or imposed. In addition, no such person shall regain eligibility for peace officer employment based upon any later order of the court setting aside, vacating, withdrawing, expunging or otherwise dismissing or reversing the conviction, unless the court finds the person to be factually innocent of the crime for which they were convicted at the time of entry of the order.

3) Clarify that persons who are facing disqualification from holding office as a peace officer may exhaust all appeals of convictions.

4) Require that civil judicial processes that can trigger disqualification meet a standard of clear and convincing evidence.

5) Require that the Department of Justice provide necessary disqualifying conviction data to POST, and allows POST to use that information for decertification processes. That information them becomes subject to public inspection under the California Public Records Act as specified.

6) Clarify that the Peace Officer Standards Accountability Division (Division) created by this bill shall review investigations conducted by law enforcement

agencies or other investigative authority and only conduct their own investigations as necessary.

7) Clarify that serious misconduct may provide grounds for suspension or decertification of an officer's certification as opposed to only decertification as previously approved by the Senate.

8) Clarify that the members of the nine-member Peace Officer Standards Accountability Advisory Board (Advisory Board) need not have two members of the public who have been subject to wrongful use of force, or have family members killed by the wrongful use of force by a peace officer. Instead the Governor shall give strong consideration to appointing individuals with those experiences.

9) Clarify that the Advisory Board chair shall be designated by the Governor, and the vice chair shall be selected by the members of the board.

10) Require that all members of the board complete a 40-hour decertification training course.

11) Specify that if the board determines that the facts and circumstances revealed by the investigation warrant a sanction other than revocation, it may recommend that a peace officer's certification be suspended for a period of time. The board shall issue a written decision explaining its reasons for decertification or suspension.

12) Specify that when POST reviews decisions of the board, POST's decision to adopt a recommendation by the board to seek revocation shall require a two-thirds vote of commissioners present and shall be based on whether the record, in its entirety, supports the board's conclusion that serious misconduct has been established by clear and convincing evidence.

13) Clarify that filing of false reports that can be characterized as dishonesty when factoring serious misconduct must be intentionally false.

14) Clarify that for purposes of determining serious misconduct the standards for physical abuse must be excessive or unreasonable as opposed to merely unauthorized as previously approved by the Senate.

15) Clarify that in demonstrating biases that may constitute serious misconduct, the provisions do not limit the rights of the employee under the First Amendment to the US Constitution.

16) Clarify and further define what constitutes participation in a law enforcement gang.

17) Clarify that failure to cooperate with an investigation into police misconduct may not be categorized as serious misconduct if it is based on a lawful exercise of rights granted under the US Constitution, California Constitution, or any other law.

18) Specify that serious misconduct includes failure to intercede upon another officer when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

19) Specify that beginning no later than January 1, 2023, each law enforcement agency shall be responsible for the completion of investigations of allegations of serious misconduct by a peace officer, regardless of their employment status.

20) Clarify that the Division shall have the authority to review any agency or other investigative authority file, as well as to conduct additional investigation, if necessary. The Division shall only have authority to review and investigate allegations for purposes of decertification.

21) Provide that the board, in their discretion, may request that the Division review an investigative file or recommend that the commission direct the Division to investigate any potential grounds for decertification of a peace officer. Those requests and recommendations from the board to the Division or commission must be based upon a decision by a majority vote.

22) Specify that POST, in its discretion, may direct the Division to review an investigative file. The commission, either upon its own motion or in response to a recommendation from the board, may direct the Division to investigate any potential grounds for decertification of a peace officer.

23) Delete the right to assert a wrongful death cause of action when the action is based on a crime of violence or a crime of moral turpitude.

24) Include language to prevent chaptering issues with SB 16 (Skinner) of this legislative session.

ANALYSIS:

Existing law:

1) Requires minimum training and moral character requirements for peace officers, as defined, while at the same time identifying certain disqualifying factors, including a felony conviction. (Penal Code Sections 830 *et seq.* and Government Code Sections 1029 and 1031.)

2) Establishes the Commission on Peace Officer Standards and Training (POST) to set minimum standards for the recruitment and training of peace officers, develop training courses and curriculum, and establish a professional certificate program that awards different levels of certification based on training, education, experience, and other relevant prerequisites. Authorizes POST to cancel a certificate that was awarded in error or fraudulently obtained; however, POST is prohibited from canceling a properly-issued certificate. (Penal Code Sections 830-832.10 and 13500 *et seq.*)

3) States that except as specified, peace officer or custodial officer personnel records and records maintained by any state or local agency pursuant to citizens' complaints against personnel are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or any agency or department that employ these officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office. (Pen. Code, § 832.7, subd. (a).)

4) Provides, under the Tom Bane Civil Rights Act, that if a person or persons, whether or not acting under color of law, interfere or attempt to interfere, by threats, intimidation, or coercion, with the exercise or enjoyment of any rights secured by the Constitution or laws of the United States, or by the Constitution or laws of the state of California, the Attorney General, or any district attorney or city attorney, is authorized to bring a civil action for equitable relief and a civil penalty. (Civil Code Section 52.1 (b).)

5) Permits a person whose exercise or enjoyment of rights were interfered with in violation of the Tom Bane Civil Rights Act to institute a civil action in their own name and on their own behalf for damages, as specified. (Civil Code Section 52.1 (c).)

6) Provides, under the Government Claims Act, that unless a statute provides otherwise, a public entity is not liable for injury, whether such injury arises out

of an act or omission of the public entity or a public employee or any other person. However, a public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of their employment if the act or omission would otherwise have given rise to a cause of action against that employee. (Government Code Section 814 *et seq.*)

7) Provides that public employees are not liable for injury caused by their instituting or prosecuting any judicial or administrative proceeding within the scope of their employment, even if they act maliciously and without probable cause. (Government Code Section 821.6.)

8) Provides, subject to certain exemptions, that a public entity or public employee is not liable for an injury to a prisoner, or an injury caused by the failure of an employee, other than a healing arts employee, to furnish or obtain medical care for a prisoner in their custody. However, nothing exonerates a public employee from injury proximately caused by their negligent or wrongful act or omission. Specifies that in such case the public entity may, but is not required to, pay any judgment, compromise, or settlement, but may be required to indemnify any public employee, in any case where the entity is immune from liability. (Government Codes Sections 844.6 and 845.6.)

This bill:

1) Requires POST to adopt by regulation a definition of "serious misconduct" that shall serve as the criteria to be considered for ineligibility for, or revocation of, certification. The bill sets out a number of criteria that shall be included as serious misconduct.

2) Grants POST the power to investigate and determine the fitness of any person to serve as a peace officer in the state of California and to audit any law enforcement agency that employs peace officers without cause at any time by creating and empowering a new division.
   a) Creates the Division within POST to investigate and prosecute proceedings to take action against a peace officer's certification.
   b) Requires the Division to review and investigate grounds for decertification or suspension and make findings as to whether the grounds for action against an officer's certification exist.
   c) Requires the Division to notify the officer subject to decertification of their findings and allow the officer to request review.

3) Creates the Advisory Board and sets forth the membership qualifications and a three-year term of service.

4) Requires that the Advisory Board hold public meetings to review the findings after an investigation made by the Division and to make a recommendation to POST.

5) Requires that POST adopt the recommendation of the Advisory Board if supported by clear and convincing evidence and if action is to be taken against an officer's certification, return the determination to the Division to commence formal proceedings before an administrative law judge consistent with the Administrative Procedures Act. And provides that the determination of the administrative law judge shall be subject to judicial review. This bill also requires that POST notify the employing agency of the officer as well as the district attorney of the county in which the officer is employed of their decision.

6) Declares that certificates or proof of eligibility awarded by POST to be the property of POST and would authorize POST to revoke a proof of eligibility or certificate on grounds including the use of excessive force, sexual assault, making a false arrest, or participating in a law enforcement gang.

7) Requires law enforcement agencies only employ peace officers with current, valid certification or pending certification.

8) Directs POST to issue or deny certification, including a basic certificate or proof of eligibility to a peace officer.

9) Requires POST to issue a proof of eligibility or basic certificate to persons employed as a peace officers on January 1, 2022, who not otherwise possess a certificate.

10) Makes all records related to the revocation of a peace officer's certification public and would require that records of an investigation be retained for 30 years.

11) Eliminates specified immunity provisions for peace and custodial officers, or public entities employing peace or custodial officers sued under the Tom Bane Civil Rights Act.

12) Makes a number of uncodified findings and declarations.

Background

This bill creates a process for decertification by creating the Division within POST. This Division has the responsibility of reviewing grounds for decertification, conducting investigations into serious misconduct, presenting findings in

decertification procedures, and seeking revocation of certification of peace officers. This bill also creates the Advisory Board. The Advisory Board is tasked with hearing evidence of misconduct and making determinations as to the certification or decertification of peace officers. The Advisory Board conducts hearings publically and the bill makes the necessary amendments to California code to permit the discussion of peace officer personnel records introduced in these proceedings subject to public disclosure.

California's Bane Act protects persons from threats, intimidation, or coercion and for attempts to interfere with someone's state or federal statutory constitutional rights. The Bane Act authorizes a cause of action against a person who, whether or not acting under "color of law," uses threats, intimidation, or coercion to interfere with the ability of another person in the exercise and enjoyment of any rights guaranteed under the U.S. or California constitutions, or any right guaranteed under federal or state statute. Some courts have more restrictively interpreted the Bane Act to require that threats, intimidation, or coercion must be committed with the specific intent to interfere with the person's rights. Other courts have found that only general intent is required. This bill would resolve these conflicting views in favor of not requiring the intent element.

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

According to the Assembly Appropriations Committee:

1) Costs (General Fund (GF)) to POST of $650,000 in fiscal year (FY) 2021-22 and between $28 million dollars and $37 million dollars annually thereafter for additional staff and infrastructure to create and operate the Division and the nine-member Board. POST estimates it would have to hire approximately 227 new staff members and acquire two more locations in the state in addition to its existing POST headquarters. POST also concludes the approximately 80 new hires that will be responsible for investigating law enforcement misconduct should be peace officers. This will likely result in increased personnel and equipment costs since peace officers are entitled to specific benefits. POST also estimates if the total number of investigations exceeds 1,200 per year, it would need staff beyond the estimated 227 new staff to handle increased workload. Unlike SB 731 (Bradford), of the 2019-2020 Legislative Session, this bill no longer contains any fee provisions.

2) Costs (GF and Legal Services Revolving Fund or both), of $386,000 in FY 2021-22, $681,000 in FY 2022-23 and $682,000 annually thereafter to the Department of Justice (DOJ) in additional staff and infrastructure to provide peace officer employment information, review and provide peace officer

disciplinary materials pertaining to serious misconduct, track certifications and possibly cover the cost of certification. Additional costs, possibly in the low-to mid-hundreds of thousands of dollars annually, may also result from increased staff workload, given this bill expands the Bane Act, which authorizes the DOJ to prosecute injunctive actions to prevent interference with a constitutional right.

3) Costs (GF) of approximately $4 million annually, to the California Highway Patrol (CHP) in additional staff and infrastructure to provide peace officer employment information and disciplinary records to POST for approximately 6,000 peace officers. Additionally, if CHP is responsible for paying the cost of certification, based on the assumptions above, the cost would be approximately $1.2 million dollars for 6,000 employees.

4) Costs (GF), possibly in the low tens of millions of dollars annually, across several state agencies that employ peace officers - such as the Department of Fish and Wildlife, Department of Insurance, California State Universities, University of California campuses, community college districts, Department of Consumer Affairs, Department of Alcoholic Beverage Control, Department of Insurance and the Department of Forestry and Fire Protection - in additional staff and infrastructure to provide employment and disciplinary information regarding all active peace officers to POST. Costs will depend on the number of peace officers each department employs.

5) Possible state-reimbursable local costs (GF/local funds) in the millions of dollars annually in additional staff and infrastructure for cities and counties to provide information to POST regarding the employment status and relevant disciplinary records for peace officers and possibly cover the costs of certification. According to the U.S. Bureau of Labor Statistics, there are approximately 100,000 peace officers employed in the state. If 50,000 peace officers are employed on the local level, costs for certification may be $10 million dollars statewide. Local costs to comply with this measure would be subject to reimbursement by the state to the extent that the Commission on State Mandates determines this bill imposes a state-mandated local program.

6) Cost pressure (Trial Court Trust Fund), possibly in the mid to upper hundreds of thousands of dollars, to the trial courts in increased workload. This bill expands the Bane Act in a manner that may increase the number of civil actions filed in state court. If 25 new lawsuits are filed annually statewide and proceed to trial resulting in a minimum of use of four days of court time, at an estimated

cost of approximately $8,000 for an eight-hour court day, the approximate cost to the trial courts is $800,000.

SUPPORT: (Verified 9/3/21)

ACLU California Action
Advancement Project
Against Bigotry, Responding With Action
Alameda County Public Defender's Office
All Home
Alliance for Boys and Men of Color
Alliance San Diego
American Association of Independent Music
American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties
American Federation of Musicians
American Federation of State, County and Municipal Employees Local 3299
Anti Police-Terror Project
Artist Rights Alliance
Artists Rights Alliance
Asian Prisoner Support Committee
Asian Solidarity Collective
Bend the Arc: Jewish Action
Black Leadership Council
Black Lives Matter - Los Angeles
Black Music Action Coalition
Borderlands for Equity
Brotherhood Crusade
California Alliance for Youth and Community Justice
California Department of Insurance
California Faculty Association
California Federation of Teachers, AFL-CIO
California Immigrant Policy Center
California Innocence Coalition: Northern California Innocence Project, California Innocence Project, Loyola Project for The Innocent
California Labor Federation, AFL-CIO
California Nurses Association
California Public Defenders Association
California State NAACP
California- Stop Terrorism and Oppression by Police Coalition
Californians for Safety and Justice

Change Begins With Me Indivisible Group
Change for Justice
Children's Defense Fund - California
Chispa, a Project of Tides Advocacy
City of Compton
City of Compton Office of the City Manager
City of Oakland
Clergy and Laity United for Economic Justice
Communities United for Restorative Youth Justice
Community Advocates for Just and Moral Governance
Community Agency for Resources Advocacy and Services
Consumer Attorneys of California
Courage California
Del Cerro for Black Lives Matter
Democratic Club of Vista
Democratic Party of Contra Costa County
Democratic Party of The San Fernando Valley
Democratic Woman's Club of San Diego County
Democrats of Rossmoor
Disability Rights California
Dolores Huerta Foundation
Drug Policy Alliance
East Bay for Everyone
East Valley Indivisibles
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities
Equal Rights Advocates
Essie Justice Group
Everytown for Gun Safety Action Fund
Family Violence Law Center
Fresno Barrios Unidos
Friends Committee on Legislation of California
Fund Her
Giffords
Ground Game LA
Hillcrest Indivisible
Indivisible CA Statestrong
Indivisible East Bay
Indivisible South Bay LA
Indivisible Yolo

Initiate Justice
John Burton Advocates for Youth
Justice Reinvestment Coalition of Alameda County
Kensington Community Church
Kern County Participatory Defense
LA Defensa
LA Voice
Law Enforcement Accountability Network
Law Enforcement Action Partnership
League of Women Voters of California
Legal Services for Prisoners With Children
Long Beach Immigrant Rights Coalition
Los Angeles County District Attorney's Office
Los Angeles LGBT Center
Martin Luther King Jr. Freedom Center
Mexican American Bar Association of Los Angeles County
Mid-city Community Advocacy Network
Mission Impact Philanthropy
Moms Demand Action for Gun Sense in America
More Than a Vote
Mosques Against Trafficking
Music Artists Coalition
National Action Network - Sacramento Chapter
National Association of Social Workers, California Chapter
National Council of Jewish Women
National Institute for Criminal Justice Reform
National Nurses United
Nextgen California
Orange County Emergency Response Coalition
Organizers in Solidarity
Pacifica Social Justice
Palomar Uu Fellowship
Partnership for The Advancement of New Americans
Payactiv
People's Budget Orange County
Pico California
Pillars of The Community
Prosecutors Alliance of California
Public Health Institute
Racial Justice Coalition of San Diego

Recording Industry Association of America
Riseup
Roots of Change
Sacramento County Young Democrats
Salesforce
San Diegans for Justice
San Diego Continuing Education
San Diego Progressive Democratic Club
San Francisco Bay Area Rapid Transit District
San Francisco Board of Supervisors
San Francisco Public Defender
San Francisco Women's Political Committee
San Jose State University Human Rights Institute
Santa Monica Coalition for Police Reform
Screen Actors Guild-American Federation of Television and Radio Artists, AFL-CIO
SD-QTPOC Colectivo
SEIU California
SEIU California State Council
Showing Up for Racial Justice - San Francisco
Showing Up for Racial Justice Contra Costa County CA
Showing Up for Racial Justice Long Beach
Showing Up for Racial Justice North County
Showing Up for Racial Justice North County San Diego
Showing Up for Racial Justice San Diego
Silicon Valley Leadership Group
Smart Justice California
Social Workers for Equity & Leadership
Songwriters of North America
Southeast Asia Resource Action Center
Students Demand Action for Gun Sense in America
Team Justice
Technet-technology Network
The Resistance Northridge Indivisible
The Santa Monica Democratic Club
Think Dignity
Together We Will/indivisible - Los Gatos
UC Berkeley's Underground Scholars Initiative
UDW/AFSCME Local 3930
Uprise Theatre

We the People - San Diego
White People 4 Black Lives
Yalla Indivisible
Young Women's Freedom Center
Youth Justice Coalition

OPPOSITION: (Verified 9/3/21)

Arcadia Police Officers' Association
Association for Los Angeles Deputy Sheriffs
Association of California Cities - Orange County
Association of Orange County Deputy Sheriffs
Association of Probation Supervisors of Los Angeles County
Burbank Police Officers Association
California Association of Highway Patrolmen
California Association of Joint Powers Authorities
California Coalition of School Safety Professionals
California Correctional Peace Officers Association
California Family Council
California Fraternal Order of Police
California Peace Officers Association
California Police Chiefs Association
California State Sheriffs' Association
California Statewide Law Enforcement Association
Cities of Folsom, Fountain Valley, Hesperia, Kerman, Laguna Niguel, Murrieta, Oceanside, Tracy, Upland, Visalia
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers Association
Deputy Sheriffs Association of San Diego
Fontana Police Officers Association
Fraternal Order of Police
Fullerton Police Officers' Association
Hawthorne Police Officers Association
Inglewood Police Officers Association
Laguna Beach Police Employees' Association
League of California Cities
Long Beach Police Officers Association
Los Angeles County Probation Managers Association AFSCME Local 1967
Los Angeles Police Protective League
Los Angeles School Police Officers Association

Newport Beach Police Association
Pacific Justice Institute
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Public Risk Innovation, Solutions, and Management
Riverside Police Officers Association
Riverside Sheriffs' Association
Sacramento County Deputy Sheriff's Association
San Bernardino County Safety Employees' Benefit Association
San Bernardino County Sheriff's Employees' Benefit Association
San Diego District Attorney Investigator's Association
San Diego Police Officers Association
San Francisco Police Officers Association
Santa Ana Police Officers Association
Upland Police Officers Association

ASSEMBLY FLOOR: 49-21, 9/3/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Reyes, Luz Rivas, Robert Rivas, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Davies, Flora, Fong, Frazier, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, O'Donnell, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Cooper, Megan Dahle, Mayes, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Villapudua

Prepared by: Gabe Caswell / PUB. S. /
9/4/21 7:15:14

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

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

UNFINISHED BUSINESS

Bill No: SB 83
Author: Allen (D), et al.
Amended: 6/29/21
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 3/16/21
AYES: Laird, Jones, Allen, Eggman, Grove, Hertzberg, Hueso, Limón, Stern

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/20/21
AYES: Portantino, Bradford, Jones, Kamlager, Laird, Wieckowski
NO VOTE RECORDED: Bates

SENATE FLOOR: 35-2, 5/28/21
AYES: Allen, Archuleta, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Dahle, Melendez
NO VOTE RECORDED: Atkins, Bates, Limón

ASSEMBLY FLOOR: 60-8, 9/2/21 - See last page for vote

SUBJECT: California Infrastructure and Economic Development Bank: Sea Level Rise Revolving Loan Program

SOURCE: Author

DIGEST: This bill requires the Ocean Protection Council, in consultation with the State Coastal Conservancy, to develop the Sea Level Rise Revolving Loan Program for the purposes of providing low-interest loans to local jurisdictions to purchase coastal properties identified as vulnerable coastal property, as provided.

Assembly Amendments make agricultural land eligible, provide factors to be taken into consideration when identifying a vulnerable coastal property, and authorize

the Coastal Conservancy to consider available resources in undertaking certain activities, among other things.

ANALYSIS:

Existing law:

1) Establishes the State Coastal Conservancy (Coastal Conservancy) to, among other things, restore coastal habitat, and provide public access to the coastline. The Coastal Conservancy provides grants through, for example, its Climate Ready Program to help grantees address the impacts of climate change in its jurisdiction.

2) Establishes the Ocean Protection Council (OPC). The OPC is required, among other things, to establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies.

3) Establishes the California Infrastructure and Economic Development Bank (I-Bank) in the Governor's Office of Business and Economic Development. The I-Bank makes loans, issues bonds, and provides financial assistance for various types of qualified projects, among other things.

4) Establishes the California Coastal Commission (Coastal Commission) pursuant to the California Coastal Act of 1976. The Coastal Commission has jurisdiction over the planning and regulation of development within the coastal zone, among other things.

5) Establishes the State Lands Commission and vests it with jurisdiction over certain public and sovereign lands, including tidelands and submerged lands.

This bill requires the OPC, in consultation with the Coastal Conservancy, to develop the Sea Level Rise Revolving Loan Program for the purposes of providing low-interest loans to local jurisdictions to purchase coastal properties identified as vulnerable coastal property, as provided. Specifically, this bill:

1) Establishes the Sea Level Rise Revolving Loan Program (Program).

2) Defines "local jurisdiction" as a city, county or resource conservation district that includes a vulnerable coastal property, and provides for a county, resource conservation district or joint powers authority, as specified, to act as a local jurisdiction in certain circumstances. A "vulnerable coastal property" means

any coastal property, building, or structure, or agricultural land, identified by a local jurisdiction that is vulnerable to sea level rise as determined in accordance with criteria developed by the OPC, as provided.

3) Requires the OPC, in consultation with the Coastal Conservancy, to develop the Program, as specified. The Program shall provide low-interest loans to local jurisdictions for the purchase of coastal properties in their jurisdictions identified as vulnerable coastal property.

4) Requires the OPC, by January 1, 2023, in consultation with the Coastal Commission, the State Lands Commission, the Office of Planning and Research, the Strategic Growth Council, the San Francisco Bay Conservation and Development Commission and other state planning and coastal management agencies to do both of the following:

    a) Adopt criteria and guidelines for the identification of vulnerable coastal properties eligible for participation in the Program. These include, among others:

        i) Required conditions for coastal properties to be identified as vulnerable coastal properties by taking into consideration specified factors including whether or not the property will generate enough revenue to repay the loan, among others.
        ii) Specific information to be included in a vulnerable coastal property plan created by the local jurisdiction in order to determine the risks of sea level rise and related risks to the community, as specified.
        iii) Criteria to identify when a vulnerable property is no longer habitable, and how to adjust the program depending on available funding, as provided.

    b) Post all developed criteria and guidelines on the OPC's internet website.

5) Authorizes a local jurisdiction to apply for, and be awarded, a low-interest loan through the Program from the Coastal Conservancy if the local jurisdiction develops and submits to the Coastal Conservancy a vulnerable coastal property plan (plan), and meets any other requirements imposed by the Coastal Conservancy. The plan shall include certain information, including how identified vulnerable coastal property or properties meet the criteria developed by the OPC, the process and timeframe for the local jurisdiction to acquire the vulnerable coastal property included in the plan, a lease agreement and

management plan for the vulnerable coastal property demonstrating that rental income during the time period is sufficient to repay the loan, and an explanation of how any structure will be removed when it can no longer be safely occupied without the need for a shoreline protective device, as specified.

6) Requires the Coastal Conservancy to review a plan submitted by a local jurisdiction and approve the plan in writing if it determines the plan meets the OPC's criteria and guidelines. If the plan does not meet the OPC's criteria and guidelines, the Coastal Conservancy shall return the plan to the local jurisdiction with a clear explanation of why it does not meet the criteria, and suggestions for improvement, if practicable. The conservancy may consider available resources when deciding to approve or return a plan.

7) Requires a local jurisdiction, if receiving a loan, to use the moneys to purchase the property or properties included in the plan through a fair and transparent purchase process. The local jurisdiction shall not use eminent domain to acquire vulnerable coastal properties in the Program.

8) Creates the Sea Level Rise Revolving Loan Fund (Fund) in the State Treasury, as provided, to be administered by the Coastal Conservancy for the purposes of providing low-interest loans to eligible jurisdictions in accordance with the Program.

    a) The I-Bank at the request of the Coastal Conservancy shall make recommendations regarding specific financing mechanisms and risk mitigation measures necessary and appropriate for the successful administration of the Fund, among other things, as specified.
    b) The Coastal Conservancy, upon appropriation by the Legislature, may provide low-interest loans from the Fund for the purposes of the Program to any local jurisdiction that meets the requirements in connection with the financing or refinancing of a vulnerable coastal property either as a sole lender or in participation or syndication with other lenders, as provided. The financing shall not exceed the total value of the vulnerable coastal property being financed, and the Coastal Conservancy may stop providing loans and accepting plans if insufficient money is available.
    c) Loan repayments, fees and penalties are required to be deposited in the Fund for certain uses, including, upon appropriation by the Legislature, for additional loans authorized under the Program. The Coastal Conservancy may use moneys in the Fund to pay for administrative costs associated with Program implementation, as specified.

9) Provides implementation of the Program is contingent upon legislative appropriation through the annual Budget Act or otherwise.

10) Makes relevant and appropriate legislative findings.

Background

In late 2019, the Legislative Analyst's Office (LAO) released a report describing the threat sea level rise poses to the state. The LAO found that the state faces the threat of extensive and expensive sea level rise impacts, and emphasized how important it is for coastal communities to start preparing for that threat now. In addition, the LAO determined that the state has a vested interest in coastal communities becoming prepared, despite most responsibility for sea level rise preparation residing with local governments. The LAO's recommendations included fostering regional-scale adaptation, and providing support for local planning and adaptation projects, among others. The LAO also noted that creative and innovative solutions could help address the risks posed by rising sea level, and that undertaking coastal adaptation and resilience activities is likely much less costly than avoiding or delaying action. The LAO cites the Federal Emergency Management Agency's (FEMA's) calculation that $1 spent in various types of pre-disaster mitigation efforts avoids public and private losses of $6 total. Action today may also provide for more time in the future to mount a more intensive response.

A few states have begun home buyout programs in certain coastal areas after experiencing severe or repeated flooding or extensive storm damage. For instance, after Hurricane/Superstorm Sandy, New Jersey established the "Blue Acres Program" in 2012 to dedicate state funds and leverage federal dollars to purchase at-risk homes. As of September 2019, this program has spent $375 million to purchase and demolish almost 1,000 properties. Damage from Hurricane Sandy also resulted in New York purchasing 300 homes for $120 million on Staten Island. Both of these examples used a combination of state and federal public funds. In North Carolina, a regional storm water service agency purchased 460 properties at a cost of $67 million. Storm water fees financed this program almost entirely. Once frontline properties are purchased, residents are able to relocate to areas at lower risk of flooding or storm damage. The frontline areas can then be restored and managed to promote resiliency and mitigate the impacts of future floods and storms.

NOTE: Additional discussion of this bill may be found in the Senate Natural Resources and Water Committee's policy analyses.

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

According to the Assembly Appropriations Committee:

1) Unknown ongoing cost pressure, likely in the tens of millions of dollars, to provide funding for the loans established under this program (GF, bond or special fund).
2) Ongoing cost pressure of approximately $900,000 annually (SLRRLF) for the State Coastal Conservancy (SCC) to administer and oversee the program established by this bill.
3) One-time cost pressure of $60,000 to $80,000 and ongoing cost pressure of $20,000 annually (SLRRLF) for the California Coastal Commission to provide input and coordinate with SCC on criteria and guidelines.

   While SCC is also required to coordinate with other agencies, the Coastal Commission would likely be the most substantive participant given its existing regulatory authority and extensive work with local governments on sea level rise.
4) The Ocean Protection Council (OPC) estimates any cost pressure from this bill would be absorbable within existing programs.
5) If funded, to the extent this bill results in an increase or acceleration of adaptation activities, this bill could result in savings due to lowering the risk of loss or damage to state resources and from avoiding some future disaster response spending.

SUPPORT: (Verified 9/2/21)

Azul
Banning Ranch Land Trust
California Coastal Commission
California Coastal Protection Network
California Coastkeeper Alliance
City of Santa Monica
Coastwalk/ California Coastal Trail Association
Humboldt Coastkeeper
Inland Empire Waterkeeper
Klamath Riverkeeper
Los Angelse Waterkeeper
Monterey Coastkeeper
Orange County Coastkeeper

Russian Riverkeeper
San Diego Coastkeeper
Santa Barbara Channelkeeper
Sierra Club California
South Bay Cities Council of Governments
Surfrider Foundation
The Nature Conservancy

OPPOSITION: (Verified 9/2/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "California already faces grave impacts from climate change, which will only worsen as global temperatures climb and polar ice caps melt. As home to more coastal residents than any other state, California is uniquely vulnerable to the hazards posted by sea level rise, which has accelerated over the past decade. According to the Ocean Protection Council's Science Advisory Team, projections for sea levels are expected to increase. The coastline could experience a half-foot rise by 2030, a two-foot rise by 2050, and surge up to nine feet by 2100. The Legislative Analyst's Office estimates around $8 billion to $10 billion of existing properties in California are likely to be underwater by 2050."

"Coastal communities have struggled to effectively prepare for sea level rise, grappling with controversial and costly options such as coastal armoring (seawalls), beach nourishment, and managed retreat. However, if California acts now to develop creative tools, we can be better prepared for advanced sea level rise impacts. SB 83 creates a revolving loan fund within the I-Bank to provide low-interest loans to local government. The loans would be used to buy properties that will be threatened in the next one or two decades, allowing the owners to sell while the property still has value. The local government can then rent out the property, repay the loan, and potentially earn additional revenue. Once the property is at risk of flooding from the rising sea, the property can be demolished without taxpayers bearing the cost."

In a joint sign-on letter, the Nature Conservancy and others add, "California must act to protect coastal communities from climate change and SB 83 serves as a critical step in developing proactive strategies."

ASSEMBLY FLOOR: 60-8, 9/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood
NOES: Bigelow, Megan Dahle, Davies, Kiley, Lackey, Patterson, Smith, Voepel
NO VOTE RECORDED: Chen, Choi, Flora, Fong, Frazier, Gallagher, Mayes, Nguyen, Seyarto, Valladares, Rendon

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
9/2/21 18:49:40

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

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

UNFINISHED BUSINESS

Bill No: SB 368
Author: Limón (D)
Amended: 7/15/21
Vote: 21

SENATE HEALTH COMMITTEE: 9-2, 3/17/21
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Melendez, Grove

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

SENATE FLOOR: 31-9, 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, Melendez, Nielsen, Ochoa Bogh, Wilk

ASSEMBLY FLOOR: 59-14, 9/2/21 - See last page for vote

SUBJECT: Health care coverage: deductibles and out-of-pocket expenses

SOURCE: Health Access California

DIGEST: This bill requires a health plan or health insurer to provide an enrollee or insured with their accrual balance toward their annual deductible and annual out-of-pocket maximum during any month in which benefits were used; permits an enrollee or insured to request their most up-to-date accrual balance toward their annual deductible and their annual out-of-pocket maximum from their health plan or insurer at any time; and requires accrual updates to be mailed unless the enrollee or insured opts out.

Assembly Amendments (1) delay the implementation date six months; (2) require disclosure until the accrual balance equals the full deductible amount; (3) clarify that the bill applies to all deductibles, if more than one; (4) require plan/insurer to establish and maintain a system for this tracking; (5) require plan/insurer to notify enrollees/insureds of their rights pursuant to this bill; (6) permit departments to implement via guidance until January 1, 2027; and (7) require delegated entities to comply with this bill.

ANALYSIS: Existing law 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 California Department of Insurance (CDI) to regulate health insurance. [HSC §1340, et seq. and INS §106, et seq.]

This bill:

1) Requires a health plan contract or health insurance policy issued, amended, or renewed on or after July 1, 2022, to monitor an enrollee's or insured's accrual toward their annual deductible, if any, and their annual out-of-pocket maximum, if any, for covered benefits.

2) Requires a health plan or health insurer to provide an enrollee or insured with their accrual balance toward their annual deductible and annual out-of-pocket maximum during any month in which benefits were used and until the accrual balance equals the full deductible amount.

3) Requires a plan/insurer to establish and maintain a system that allows an enrollee/insured to request their most up-to-date accrual balance toward their annual deductible and their annual out-of-pocket maximum from their health plan or insurer at any time.

4) States that if the plan contract or insurance policy includes more than one annual deductible, then this bill applies to each deductible.

5) Requires the accrual update to be mailed unless the enrollee or insured opts out and elects an electronic update or unless the enrollee has previously opted out of mailed notices. Permits accrual to be included in the evidence of benefits statement.

6) Requires a plan/insurer to notify enrollees of their rights pursuant to this bill, including, but not limited to, how to request information and how to opt out of mailed notices and elect to instead receive their accrual update electronically, in the manner set forth by DMHC and CDI. Permits DMHC and CDI to issue guidance regarding implementation of, and compliance with, this bill, not

subject to the Administrative Procedure Act, until January 1, 2027. Requires DMHC and CDI to consult with stakeholders in developing guidance.

7) Requires if a plan/insurer delegates claims payment functions to a contracted entity, including, but not limited to, a medical group or independent practice association, then the delegated entity to comply with the bill, specify by contract the delegated entity's responsibilities and monitor the delegated entity to ensure compliance. Requires health plan and insurer to remain responsible for compliance with this bill.

Comments

Author's statement. According to the author, millions of Californians have coverage with deductibles, sometimes over $1,000 and/or even as much as $7,000 or $8,000 in the individual market. Despite the significant financial impact, no state law requires health plans or providers to inform consumers about where they are in meeting their deductible or out-of-pocket maximum. This bill mandates health plans update enrollees on their accrual amounts on a monthly basis, whenever benefits were used towards their deductible or maximum out of pocket limits. People experiencing significant health needs should not have the additional hardship of tracking their cost sharing to determine whether they have met their deductible or maximum out-of-pocket amounts. Furthermore, underserved communities are particularly impacted by the lack of transparency and face additional challenges, such as language barriers and access to broadband internet that make keeping track of their payments even more difficult. Health plans already have information on enrollee's accruals since they are responsible for reimbursing any payments beyond the maximum out-of-pocket.

Deductibles and copayments. According to an August 2020 California Health Benefits Review Program (CHBRP) report, enrollee cost sharing is the portion that enrollees are responsible for paying out-of-pocket directly to the provider for a covered health care service or treatment. Common cost-sharing mechanisms include copayments, coinsurance, and deductibles. Deductibles are a fixed dollar amount (lump sum for one or more services) an enrollee is required to pay out-of-pocket within a given time period (e.g., a year) before the health plan or insurer begins to pay, in part or in whole, for covered health care services. A plan or policy can have more than one deductible, for example, a general deductible that applies to a specified set of covered medical benefits and another deductible that applies to prescription drugs or hospital admissions. Deductibles can range from $200 for an outpatient pharmacy benefit to $2,500 or more for a family medical benefit. Additionally, each enrollee in a family may have a deductible with an overall family deductible cap. Not all plans and policies have deductibles.

Annual out-of-pocket maximum limits. The CHBRP report describes annual out-of-pocket maximums as limits on an enrollee's cost-sharing (copayments, coinsurance, and deductibles) obligations in a one-year period. The Affordable Care Act (ACA) established an annual out-of-pocket maximum for all nongrandfathered plans. In 2020, the annual out-of-pocket maximum allowed under the ACA is $8,150 for self-only coverage and $16,300 for family coverage. Nongrandfathered plans and policies may have lower annual out-of-pocket maximums, for example platinum plans sold in Covered California, California's health insurance marketplace, have an annual out-of-pocket maximum in 2020 of $4,500 for self-only coverage and $9,000 for family coverage. Grandfathered plans and policies are not subject to this requirement and so could have higher annual out-of-pocket maximums.

Employer coverage. According to the 2020 Employer Health Benefits Survey, most covered workers are in a plan that has an out-of-pocket maximum. In 2020, 100% of covered workers are in a plan with an out-of-pocket maximum for self-only coverage. This has increased from 98% in 2015. Eleven percent of covered workers in plans with an out-of-pocket maximum for single coverage have a spending limit of less than $2,000, while 18% have a spending limit of $6,000 or more.

Transparency regulations. Federal transparency regulations were issued by the Internal Revenue Service, Employee Benefits Security Administration, and the Department of Health and Human Services and finalized in November of 2020. Under these regulations, after January 1, 2024, at the request of a participant, beneficiary, or enrollee in a group health plan or health insurance issuer offering group or individual health insurance, the plan or issuer must provide:

1) An estimate of the participant's, beneficiary's, or enrollee's cost-sharing liability for a requested covered item or service furnished by a provider or providers;
2) Accumulated amounts;
3) In-network rates; and,
4) Out-of-network allowed amounts, as specified.

Accumulated amounts are defined as the amount of financial responsibility an individual has incurred at the time a request for cost-sharing information is made, with respect to a deductible or out-of-pocket limit. If an individual is enrolled in other than self-only coverage, these accumulated amounts shall include the financial responsibility that they have incurred toward meeting their individual deductible or out-of-pocket limit, as well as the amount of financial responsibility that all the individuals enrolled under the plan or coverage have incurred, in

aggregate, toward meeting the other than self-only deductible or out-of-pocket limit, as applicable. Accumulated amounts include any expense that counts toward a deductible or out-of-pocket limit (such as a copayment or coinsurance), but exclude any expense that does not count toward a deductible or out-of-pocket limit (such as any premium payment, out-of-pocket expense for out-of- network services, or amounts for items or services not covered under the group health plan or health insurance coverage). To the extent a group health plan or health insurance issuer imposes a cumulative treatment limitation on a particular covered item or service (such as a limit on the number of items, days, units, visits, or hours covered in a defined time period) independent of individual medical necessity determinations, the amount that has accrued toward the limit on the item or service (such as the number of items, days, units, visits, or hours the individual has used within that time period).

State regulated health coverage. According to the California HealthCare Foundation, in 2019, California health insurers covered 32.7 million enrollees - 27.1 million were enrolled in commercial coverage or public managed care and 5.6 million were enrolled through administrative services only arrangements for self-insured employers. Commercial enrollment consists of small group, large group, and individual enrollment. The state can regulate private health insurance coverage but not coverage provided through self-insured employer benefit plans. According to the 2020 Employer Benefits Survey, federal law (the Employee Retirement Income Security Act of 1974 or ERISA) exempts self-funded plans established by private employers (but not public) from most state insurance laws, including reserve requirements, mandated benefits, premium taxes, and many consumer protection regulations. Nationally, 67% of covered workers were in a self-funded plan in 2020. These tend to be employers with 200 or more employees. Additionally, because Medi-Cal is administered through the Department of Health Care Services and has federal rules, there can be differences in requirements associated with Medi-Cal coverage vs. private state regulated coverage. While the federal transparency regulation applies broadly to state and federally regulated health insurance (not Medicaid, not grandfathered plans), this bill would apply only to state regulated health insurance, including grandfathered plans. Some differences between the federal rule and this bill are that this bill requires automatic notification in any month benefits were used. The federal regulation requires notification upon request. The federal regulation also has requirements around the method of notification whereas this bill is silent.

Concerns. America's Physicians Groups states that they would support this bill, if amended, and requests the following amendment to help ensure the benefits of this

bill also apply to those enrollees who may be receiving their services through any contracted network providers:

> (c) A health care service plan shall provide its contracted, network providers with real time access to an enrollee's accrual balance toward their annual deductible for the purpose of that provider's collection of the enrollee's cost share amount at the time of service.

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

According to the Assembly Appropriations Committee:

1) CDI anticipates costs of $36,000 in fiscal year (FY) 2021-22 for guidance development and $188,000 in FY 2027-28 to promulgate regulations (Insurance Fund).

2) DMHC estimates the total cost of this bill to be approximately $641,000, including 3.1 personnel years (PYs) in FY 2021-22, $640,000, including 3.0 PYs in FY 2022-23, $616,000, including 3.0 PYs in FY 2023-24, $500,000, including 2.4 PYs in FY 2024-25 and annually thereafter (Managed Care Fund).

SUPPORT: (Verified 9/2/21)

Health Access California (source)
American Cancer Society Cancer Action Network
Biogen
California Labor Federation, AFL-CIO
California Pan-Ethnic Health Network
California School Employees Association
National Health Law Program
Pharmaceutical Research and Manufacturers of America
Western Center on Law and Poverty

OPPOSITION: (Verified 9/2/21)

America's Health Insurance Plans
California Association of Health Plans
Department of Finance

ARGUMENTS IN SUPPORT: Health Access California, the sponsor of this bill, writes, that though only a small percentage of people incur costs that put them close to their out-of-pocket limit, those that do meet this limit are the ones with the most burdensome and expensive-to-treat conditions. Out-of-pocket limits help

provide crucial protection against outlandish medical bills, but, similar to deductibles, the burden of tracking accrual falls on enrollees. Despite the significant financial impact of deductibles and maximum out-of-pocket limits, consumers are often left with little help from insurance plans in tracking their accrual towards these amounts - even while their health plans have ready access to this information. Currently, there are no state laws requiring plans or insurers to inform consumers about how close they are to meeting their deductibles our out-of-pocket limits. This bill will help people understand what they have spent on their health care by shifting the burden of tracking annual accruals to health plans. People already experiencing significant health needs should not have to shoulder the additional burden of having to keep every receipt and track each and every cost to determine if they have reached their deductible or maximum out of pocket amounts. Though plans will often provide this information over the phone, people would first need to know that they can call in to request the information, and also have the ability to navigate their plan's customer service whenever they needed an update. Underserved communities may particularly suffer from the lack of transparency and face additional challenges, such as language barriers and health and financial literacy, that make keeping track of their payments even more difficult.

The Western Center on Law and Poverty writes many low-income consumers are very concerned about their credit, as having bad credit and limited resources can mean losing out on housing opportunities, paying higher interest, or only having access to subprime products like payday loans. All too often a consumer will pay a bill, even if they are not certain that they owe a bill, because they fear what will happen to their credit. For low-income consumers, even if the overpayment is returned, money that is tied up in health care bills means other bills are not paid or they forego needed services, including future medical care. For consumers who have met their deductible or out-of-pocket maximum, care is likely to be significantly cheaper for them for the remainder of the year. However, without this being communicated, the consumer may avoid care altogether at precisely the time when they most need it.

ARGUMENTS IN OPPOSITION: The California Association of Health Plans and America's Health Insurance Plans write with concerns that this bill could be unworkable because it does not take into account the delegation of medical management and administrative functions to contracted providers. With the delegation of medical management to providers, the health plan does not always know in real-time when services have been rendered and thus what has been paid in share-of-cost. If the provider has not sent the appropriate encounter or claims information to the plan, the data could be outdated. This bill may not properly take

into account this model and could be more harmful to patients if incorrect information is provided. It is also unclear whether it is the intent to allow health plans to use existing technology to make the information available and avoid outdated forms of communication. Enrollees have the ability to go online to track their accumulation balances but have the option to request share-of-cost information by mail. Our members would prefer that any state law allow for this same process and avoid costly and challenging new requirements at a time when plans are being pressured to keep administrative costs as low as possible. Finally, new federal rules require health plans to provide accumulation balances upon request. Recognizing that health plans would need time to create these new systems, those provisions do not become effective until plan years beginning on or after January 1, 2024. As a result, they request that the effective date of this bill be delayed to match the federal regulations. The Department of Finance is opposed to this bill because many of the provisions of this bill are duplicative of current efforts at the federal level, and it imposes costs not included in the 2021 Budget Act.

ASSEMBLY FLOOR: 59-14, 9/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood
NOES: Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Lackey, Mathis, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Bigelow, Gray, Mayes, Nguyen, Patterson, Rendon

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
9/2/21 18:49:34

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

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

UNFINISHED BUSINESS

Bill No: SB 436
Author: Dahle (R)
Amended: 8/26/21
Vote: 21

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

SENATE FLOOR: 37-0, 3/22/21 (Consent)
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Limón, McGuire, Stern

ASSEMBLY FLOOR: 76-1, 9/2/21 - See last page for vote

SUBJECT: Community colleges: nonresident tuition

SOURCE: Author

DIGEST: This bill removes the sunset date of provisions in current law, which authorize Lake Tahoe Community College (LTCC) to waive non-resident tuition fees and claim apportionment for a limited number of students that reside in the Nevada communities of the Lake Tahoe Basin, thereby making the authorization permanent.

Assembly Amendments make additional clarifying and technical changes to existing law.

ANALYSIS:

Existing law:

1) 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. (Education Code (EC) § 76140)

2) Prohibits non-resident students from being reported as full-time equivalent students (FTES) for state apportionment purposes, except where (a) the community college district 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 § 76140(h) (i))

3) Exempts, additionally, up to 200 students in any academic year from paying non-resident tuition fees if they attend the LTCC and reside in specified communities in the State of Nevada, and permits the LTCC to count these persons as resident FTES for purposes of determining California apportionment funding. *Sunsets these provisions on July 1, 2022.* (EC § 76140 (a)(6))

4) 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 § 76140(j)).

5) Authorizes the Board of Governors of the California Community Colleges (CCC) to enter into an interstate attendance agreement with any statewide pubic 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 the Western Interstate Commission for Higher Education. (EC § 66801)

This bill:

1) Removes the July 1, 2022 sunset date of provisions in current law, which authorize LTCC to waive non-resident tuition fees and claim apportionment for 200 students that reside in the Nevada communities of Incline Village, Kingsbury, Round Hill, Skyland, Stateline or Zephyr Cove, thereby making the authorization permanent.

2) Makes clarifying and technical changes to existing law.

Comments

1) *Need for the bill.* According to the author, "SB 605 provided that the authorization for LTCC to utilize the non-resident tuition waiver would only become operative if the state of Nevada enacted a reciprocal agreement. This provision led to the creation of the California Nevada Interstate Attendance Agreement (CNIAA). Since the passage of SB 605, Nevada has entered into the Western Interstate Commission for Higher Education (WICHE) Western Undergraduate Exchange (WUE). Western Nevada College also participates in WUE, which provides California residents access to non-resident tuition. Because Western Nevada College participates in the WUE, and the WUE provides identical benefits to those provided in CNIAA, there is not a need to extend the provisions of the CNIAA. However, because the CCC system does not currently participate in the WUE, the provisions of this bill are necessary in order to continue to provide reciprocity to Tahoe Basin Nevada residents."

2) *Unique circumstances of the Lake Tahoe Basin*. The Lake Tahoe Basin is a one-of-a-kind geographic, political, and economic region comprised of two states, five counties and multiple cities and municipalities. The Lake Tahoe Basin is subject to a single set of environmental and development regulations that directly influence the environmental and economic health of the region, making cross-border, and regional coordination a prerequisite for revitalizing the local economy. LTCC is situated on the south shore of Lake Tahoe, three miles from the California/Nevada border and eight miles from George Whitwell High School in Nevada. LTCC is the only public institution of higher education serving the workforce development needs of the Lake Tahoe Basin. The next nearest community college is 25 miles away in Nevada; an hour drive and subject to extreme weather conditions. This bill seeks to ensure that Tahoe Basin Nevada residents can continue to have affordable access to the programs and courses provided at LTCC.

3) *California/Nevada Good Neighbor Agreement.* Between 1988 and 2011, California and Nevada operated under a "Good Neighbor Policy" that met the requirements of EC 76140(j) and allowed LTCC to provide a waiver of nonresident tuition for Nevada and claim the adjusted apportionment. In 2011, the Nevada Board of Regents voted to end the Good Neighbor Policy, meaning that Nevada residents of the Tahoe Basin were required to pay the full nonresident tuition to attend LTCC.

4) *Existing authorization expires.* The Legislature approved SB 605 (Gaines, Chapter 657, Statutes of 2015) to annually exempt up to 200 Nevada residents that reside in specified communities in the Basin from paying non-resident fees and authorizes LTCC to count these students as resident full-time equivalent students for purposes of apportionment funding. Under these provisions, Nevada residents in the Tahoe Basin pay $93/unit (quarter units). Following the passage of SB 605, the CCC Board of Governors entered into the CNIAA with the Nevada System of Higher Education. The CNIAA provides reciprocity for California Basin students to attend Western Nevada College and pay resident fees. The provisions of SB 605 and the CNIAA are set to expire on July 1, 2022.

   This bill makes provisions established by SB 605 permanent thereby authorizing LTCC to continue to allow a limited number of Nevada residents within the Tahoe Basin to pay a lower rate and claim apportionment funding for those students.

5) *Numbers of students served.* In 2019, LTCC admitted approximately 40 students (17.76 FTES) under the CNIAA. Western Nevada College provided reciprocity to 26 California students under WUE. The provisions of this would apply to up to 200 Nevada residents within the specified communities.

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

SUPPORT: (Verified 9/2/21)

Lake Tahoe Community College District (source)
Advance Learn Earn Grow
Lake Tahoe Community College Foundation
Student Senate for Lake Tahoe Community College
Tahoe Chamber

OPPOSITION: (Verified 9/2/21)

None received

ASSEMBLY FLOOR: 76-1, 9/2/21
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, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood
NOES: Salas
NO VOTE RECORDED: Nguyen, Rendon

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
9/2/21 18:49:28

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

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

UNFINISHED BUSINESS

Bill No: SB 535
Author: Limón (D), et al.
Amended: 7/8/21
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 4/21/21
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: 40-0, 6/1/21
AYES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ASSEMBLY FLOOR: 77-0, 9/2/21 - See last page for vote

SUBJECT: Biomarker testing

SOURCE: Author

DIGEST: This bill prohibits health plans and insurers from requiring prior authorization for biomarker testing for advanced or metastatic stage 3 or 4 cancer, and cancer progression or recurrence.

Assembly Amendments delay implementation by six months.

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 as California's essential health benefits (EHBs) benchmark the Kaiser Small Group Health Maintenance Organization, existing California coverage mandates (including medically necessary basic health care services), and ten Affordable Care Act (ACA) mandated benefits. Requires non-grandfathered individual and small group health plan contracts and insurance policies to cover these EHBs. [HSC §1367.005 and INS §10112.27]

3) Requires an individual or group health plan contract or health insurance policy, except for a specialized health plan contract or health insurance policy, that is issued, amended, delivered, or renewed on or after July 1, 2000, to be deemed to provide coverage for all generally medically accepted cancer screening tests, subject to all terms and conditions that would otherwise apply.[HSC §1367.665 INS §10123.20]

4) Requires the criteria or guidelines used by health plans and insurers, or any entities with which plans or insurers contract for utilization review or utilization management functions, to determine whether to authorize, modify, or deny health care services to:

   a) Be developed with involvement from actively practicing health care providers;

   b) Be consistent with sound clinical principles and processes;

   c) Be evaluated, and updated if necessary, at least annually;

   d) If used as the basis of a decision to modify, delay, or deny services in a specified case under review, be disclosed to the provider and the enrollee or insured in that specified case; and,

   e) Be available to the public upon request. [HSC §1363.5 and INS §10123.135]

5) Requires health plans and disability insurers and any contracted entity that performs utilization review or utilization management functions, retrospectively, or concurrently, based in whole or in part on medical necessity requests by providers related to health care services to enrollees or insureds, to comply with specified requirements, including that decisions are made in a timely fashion appropriate for the nature of the enrollee’s or insured’s

condition, not to exceed five business days from the plan's receipt of the information reasonably necessary and requested by the plan to make the determination, or not more than 72 hours if the enrollee or insured faces an imminent and serious threat to health. [HSC §1367.01 and INS §10123.135]

This bill:

1) Prohibits an health plan contract or insurance policy, except for a specialized health plan contract or health insurance policy, that is issued, amended, delivered, or renewed on or after July 1, 2022, from requiring prior authorization for either of the following:

   a) Biomarker testing for an enrollee or insured with advanced or metastatic stage 3 or 4 cancer.

   b) Biomarker testing for cancer progression or recurrence in the enrollee or insured with advanced or metastatic stage 3 or 4 cancer.

2) Defines "biomarker test" as a diagnostic test, such as single or multigene, of the cancer patient's biospecimen, such as tissue, blood, or other bodily fluids, for DNA or RNA alterations, including phenotypic characteristic of malignancy, to identify an individual with a subtype of cancer, in order to guide patient treatment.

3) Applies this bill and existing law to Medi-Cal managed care plans.

4) States that this bill does not prohibit a health plan or insurer from requiring prior authorization on biomarker testing that is not for an FDA-approved therapy for advanced or metastatic stage 3 or 4 cancer.

5) States that this bill does not limit, prohibit or modify an enrollee or insured's rights to biomarker testing as part of an approved clinical trial under existing law.

Comments

Author's statement. This bill improves access to targeted therapy for advanced cancer patients. For this group of patients, prior authorization delays reduces survival rates and quality of life. Specifically, this bill prohibits prior authorization for biomarker testing for patients with advanced or metastatic stage 3 or 4 cancer. In so doing, this bill removes a significant hurdle for late-stage cancer patients in accessing genetic testing to help inform their treatment in order to expedite care.

Improved access to care overall reduces healthcare costs from fewer outpatient doctor visits, hospitalizations, and hospice care.

Cancer prevalence in California. According to the California Health Benefits Review Program (CHBRP), the overall prevalence of metastatic or stage 3 or 4 cancer is unknown. Stage 3 denotes larger cancer that is spreading to surrounding tissues and/or lymph nodes. Stage 4 is cancer that has spread from its original source to at least one other organ (metastatic). In 2021, it estimated 187,140 Californians will receive cancer diagnoses. Black women and Asian and Pacific Islander women have a higher risk of breast cancer-specific mortality. Black men are more likely to be diagnosed at a younger age, present with more advanced and aggressive disease and have a 2.3 times higher mortality rate compared with non-Hispanic White men, and have the highest incidence rate for lung cancer.

Genetic biomarker testing. CHBRP indicates genetic biomarker testing exemplifies the shift towards "personalized medicine," which tailors individuals' prevention, diagnosis, and treatment according to their genetic profile. The field is rapidly evolving. Best practices change as new biomarkers are being discovered and treatments are developed and FDA approved. Biomarker tests for patients with stage 3 or 4 cancer are predictive tests that inform effects of therapeutic interventions and can be used to tailor treatment. There is consensus among clinical guidelines about the cancers for which genetic biomarker tests should be performed. CHBRP cites studies that indicate patients receiving biomarker testing and targeted therapy have a median overall survival about twice as great than for patients receiving standard chemotherapy or supportive care (51.7 weeks vs. 25.8 weeks), and average cost was lower $2,720 compared to $3,453. In terms of timing, biomarker testing can take up to four weeks to complete. In California, a health plan or insurer has five business days or 72 hours, if serious threat, to respond to a prior authorization request.

CHBRP analysis. AB 1996 (Thomson, Chapter 795, Statutes of 2002) requested the University of California to assess legislation proposing a mandated benefit or service and prepare a written analysis with relevant data on the medical, economic, and public health impacts of proposed health plan and health insurance benefit mandate legislation. CHBRP was created in response to AB 1996, and reviewed this bill. Key findings include:

1) *Medical effectiveness.* CHBRP indicates there is insufficient evidence regarding delays caused by prior authorization for biomarker testing; however, it is possible that prior authorization could exacerbate the delays to obtaining results of biomarker tests. There is insufficient evidence that prior authorization for

biomarker testing impacts cancer outcomes for individuals with metastatic or advanced stage 3 or 4 cancer. To the extent that prior authorization delays biomarker testing, it could delay initiation of targeted therapies, which could increase mortality among persons with cancers for which targeted therapies are available.

2) *Public health.* The removal of prior authorization has the potential to decrease time to treatment, there is no evidence that evaluates this directly. Should it result in fewer delays in obtaining biomarker test results, it stands to reason there is potential for a limited public health impact. CHBRP did find evidence of disparities in rates of biomarker testing by income, with people of lower socio-economic levels receiving biomarker testing at lower rates. This bill could result in a reduction of income and racial/ethnic disparities in biomarker testing rates due to a decrease in coverage denials for biomarker tests; however, the degree to which these disparities may decrease in unknown.

3) *EHBs*. CHBRP believes this bill would not exceed EHBs.

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

According to the Assembly Appropriations Committee:

1) DMHC estimates the total cost of this bill to be approximately $69,000, including 0.3 personnel year (PY), in fiscal year (FY) 2021-22; $214,000, including 1.0 PY, in FY 2022-23; $46,000, including 0.2 PY, in FY 2023-24 and the same amount annually thereafter. These costs include short-term legal work to clarify this bill's requirements and additional workload to issue All Plan Letters and review health plan documents (Managed Care Fund).

2) CDI estimates $5,000 is needed in FY 2021-22 to review policy forms and documents for compliance (Insurance Fund).

3) CHBRP projects an increase in total net annual expenditures of $2,506,000 or 0.0019% for enrollees with DMHC-regulated plans and CDI-regulated policies. This is due to a $7,753,000 increase in total health insurance premiums paid by employers and enrollees for covered benefits and a $1,979,000 increase in enrollee cost sharing for covered benefits, adjusted by a $7,226,000 decrease in enrollee expenses for noncovered benefits.

4) DHCS states costs are indeterminate and anticipates the prohibition of prior authorization for biomarker testing would increase utilization which would possibly increase capitation rates. Considering CHBRP's analysis of this bill's

increase in premiums for employer-based coverage, an increase in Medi-Cal managed care capitation rates could be in the hundreds of thousands of dollars.

SUPPORT: (Verified 9/2/21)

Albie Aware Breast Cancer Fund
Ambry Genetics
American Society for Clinical Pathology
Association of Community Cancer Centers
Astrazeneca Pharmaceuticals
California Chronic Care Coalition
California Clinical Laboratory Association
California Medical Association
California Pharmacists Association
Guardant Health
LUNGevity Foundation
Medical Oncology Association of Southern California
Oncocyte Corporation
Ovarian Cancer Coalition of Greater California
San Francisco Women's Cancer Network
Triage Cancer

OPPOSITION: (Verified 9/2/21)

America's Health Insurance Plans

ARGUMENTS IN SUPPORT: The Medical Oncologist Association of Southern California writes while designed to reduce costs, there is no evidence that prior authorization reduces overall health care expenditures. In fact, when a treatment is abandoned or delayed as a result of prior authorization, patients often need additional and often more costly medical interventions. One study shows that in patients with advanced cancer, over a five-year period, the average cost per week for a patient on standard chemotherapy was $3,453, while the average cost per week for a patient on targeted therapy was $2,720. The California Chronic Care Coalition writes targeted therapies are approved by the FDA with the companion diagnostic, biomarker testing, because they have proven to improve survival rates and quality of life. Yet in California today, prior authorization is required for both, imposing delays that patients with advanced cancer should not have to face. The California Pharmacists Association writes between 2012 and 2016, 25.3% of Hispanic men diagnosed with lung cancer and 13.1% of Hispanic women diagnosed with lung cancer died. African Americans have the highest death rate and shortest survival of any racial and ethnic group in the US for most cancers.

Until we embrace removing barriers to advances in cancer treatment to appropriate care, we cannot truly have equity. The California Clinical Laboratory Association writes laboratories have recently introduced key tests for advanced cancer patients. For example, one of these tests is now a liquid biopsy to comprehensively sequence a patient's cancer to reveal actionable mutations. These tests highlight the importance of biomarker driver care in cancer patients. It is very important to remove restrictive barriers to access like prior authorization policies regarding this necessary testing. Patients absolutely need access to potentially life-changing precision medicine testing.

ARGUMENTS IN OPPOSITION: America's Health Insurance Plans writes and that this bill will increase healthcare costs while potentially subjecting patients to lower levels of care. Prior authorization is an important tool that medical groups and health plans use to ensure that the services recommended and prescribed are not only evidence based but will result in the most efficacious and cost effective treatment for the patient. While genetic testing is a promising new field and certainly useful in the areas for which the benefit is supported by medical literature; its use requires careful oversight and consideration when determining its appropriateness. Additionally, it bears noting that genetic biomarker testing is a broad category. While this category includes some tests that are the current standard of care, it includes others that are still classified as experimental. This is also a field that is rapidly expanding as new tests are frequently developed. Prior authorization is typically required for many genetic tests, including biomarker tests, to ensure the patient meets the criteria for the test and the appropriate test is being ordered. It also ensures that the test is covered (i.e. not experimental or investigational). Many testing companies have created large panels of tests that are often denied because a single test is really all that is medically necessary. Completely removing the prior authorization requirement for genetic testing would compel coverage for all testing, including experimental and investigational tests that may not work or be appropriate for a patient from a clinical care perspective. Opening the door to experimental and investigational testing, with little proven benefit, will raise the cost of healthcare while providing very little benefit to patients. Further, prohibiting a plan or insurer from having any oversight with respect to these types of services may incentivize testing companies to market large expensive panels of tests that far exceed what is actually needed.

ASSEMBLY FLOOR: 77-0, 9/2/21
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, 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

NO VOTE RECORDED: Nguyen, Rendon

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
9/2/21 18:49:17

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

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

UNFINISHED BUSINESS

Bill No: SB 660
Author: Newman (D), et al.
Amended: 6/23/21
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 3-2, 4/12/21
AYES: Hertzberg, Leyva, Newman
NOES: Glazer, Nielsen

SENATE JUDICIARY COMMITTEE: 8-2, 4/20/21
AYES: Umberg, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Caballero

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

SENATE FLOOR: 28-11, 5/24/21
AYES: Archuleta, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Caballero, Dahle, Glazer, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Allen

ASSEMBLY FLOOR: 51-18, 9/2/21 - See last page for vote

SUBJECT: Initiative, referendum, and recall petitions: compensation for signatures

SOURCE: Author

DIGEST: This bill prohibits a person from paying money or providing any other thing of value based on the number of signatures obtained on a state or local initiative, referendum, or recall petition. The bill permits the Attorney General (AG) or a private person, acting as a qui tam plaintiff, to bring a civil action for a violation of this prohibition and imposes a monetary penalty, as specified.

Assembly Amendments (1) specify that any money resulting from a penalty for violating this provision that is deposited into an account for the AG to investigate and prosecute fraud must be for fraud related to the initiative, referendum, or recall process; (2) provide that if either the state or the qui tam plaintiff prevails in or settles an action, both the AG and the qui tam plaintiff receive an award of their reasonable costs and attorneys' fees, not only the qui tam plaintiff; and (3) add coauthors and make technical changes.

ANALYSIS:

Existing law:

1) Permits any person who is 18 years of age or older to circulate a state or local initiative, referendum, or recall petition.

2) Requires, for a state or local initiative, referendum, or recall petition for which the circulation is paid for by a committee, that a disclosure be made on the petition or on a separate sheet that identifies the top contributors to the committee, as specified.

3) Requires a state or local initiative petition to contain a notice to the public that the petition may be circulated by a paid signature gatherer or a volunteer, and that a person has the right to ask.

4) Makes it a misdemeanor for a person to do any of the following:

    a) While circulating a state or local initiative, referendum, or recall petition, intentionally misrepresent or intentionally make a false statement concerning the contents, purport, or effect of the petition, or the petition's top funders disclosure, to any person who signs or is requested to sign the petition.

    b) Willfully and knowingly circulate, publish, or exhibit any false statement or misrepresentation concerning the contents, purport, or effect of a state or local initiative, referendum, or recall petition, or the petition's top funders

disclosure, for the purpose of obtaining any signature to, or persuading or influencing any person to sign, that petition.

c) While circulating a state or local initiative petition, intentionally make a false statement in response to an inquiry by a voter as to whether the circulator is paid or a volunteer.

5) Provides that a person, company, organization, company official, or other organizational officer in charge of a person who circulates an initiative, referendum, or recall petition who knowingly directs a circulator to make a false affidavit or who knows or reasonably should know that a circulator has made a false affidavit concerning a petition or the signatures appended thereto is punishable by a fine not exceeding $5,000, by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

6) Provides that upon conviction of the conduct described in 4) or 5), among other conduct, a court may order as a condition of probation that the convicted person be prohibited from receiving money or other valuable consideration for gathering signatures on an initiative, referendum, or recall petition.

This bill:

1) Provides that it is unlawful for a person to pay money or any other thing of value based on the number of signatures obtained on a state or local initiative, referendum, or recall petition.

2) Provides that a violation of this prohibition is punishable by a civil penalty equal to the greater of $25,000 or $50 times the number of signatures gathered in exchange for compensation.

3) Provides that the AG may bring a civil action against a person for violating this prohibition.

4) Provides that a person, referred to as the qui tam plaintiff, may bring a civil action for a violation of this prohibition to recover the fine described above. Requires the qui tam plaintiff to serve the AG with a copy of the complaint and disclose substantially all material evidence, as specified. Provides that, within 60 days after receiving the complaint, the AG may elect to intervene and proceed with the action.

5) Provides that a filed action may be dismissed only with the written consent of the court and the AG, as specified, and prohibits any private person from waiving or releasing any claim for a violation of this prohibition, except if the action is part of a court approved settlement.

6) Provides that if the AG initiates an action or assumes control of an action initiated by a qui tam plaintiff, the office of the AG shall receive a fixed 33 percent of the proceeds of the action or settlement of the claim, which shall be deposited in a Petition Signature Fraud Account (PSFA), established in the General Fund. Provides that moneys in the PSFA shall be available, upon appropriation, for use by the AG to support the investigation and prosecution of fraud related to the initiative, referendum, or recall process, as specified.

7) Provides that if a qui tam plaintiff initiates an action, the qui tam plaintiff shall receive at least 17 percent, but not more than 50 percent, of the proceeds of the action or settlement of the claim, depending on the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action.

8) Provides that the portion of the recovery not distributed as described above in 6) or 7) shall be deposited into a Petition Signature Fraud Voter Education Subaccount (PSFVES), established in the PSFA. Provides that moneys in the PSFVES shall be available, upon appropriation, for use by the Secretary of State (SOS) to support voter registration and education efforts.

9) Provides that if the state, through the AG, or the qui tam plaintiff, prevails in or settles an action under this bill, the AG and qui tam plaintiff shall each receive an amount for reasonable expenses, costs, and attorney's fees, as specified. All expenses, costs, and fees shall be awarded against the defendant and under no circumstances shall they be the responsibility of the state.

10) Provides that if the AG does not proceed with the action and the qui tam plaintiff conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses against the party that proceeded with the action if the defendant prevails in the action and the court finds that the claim was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

11) Provides that a qui tam plaintiff shall be entitled to all relief necessary to make themselves whole, if that qui tam plaintiff is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms

and conditions of their employment because of lawful acts done by the qui tam plaintiff, or associated others, in furtherance of an action under this bill or other efforts to stop one or more violations of the prohibitions in this bill.

12) Provides that if a person brings such an action no other person may bring a related action based on the facts underlying the pending action.

13) States that the provisions of this bill do not prohibit the payment for signature gathering not based, either directly or indirectly, on the number of signatures obtained on a state or local initiative, referendum, or recall petition.

14) Makes findings and declarations.

Background

Per-Signature Bans in Other States. At least seven states (Arizona, Florida, Montana, North Dakota, Oregon, South Dakota, and Wyoming) limit the ability of initiative or referendum proponents to pay signature gatherers on a per-signature basis. In 2015, Nebraska repealed a state law that prohibited petition circulators from being paid on a per-signature basis. Laws to ban per-signature payments in at least six states (Colorado, Idaho, Maine, Mississippi, Ohio, and Washington) have been invalidated by courts. Alaska prohibits per-signature payments greater than $1 per signature, but does not ban them.

Signature Gathering Restrictions Litigation. In 1988, the United States Supreme Court ruled that a Colorado prohibition against using paid circulators for initiative petitions infringed on First Amendment free speech rights. The Court held that "[t]he State's interest in protecting the integrity of the initiative process does not justify the prohibition because the State has failed to demonstrate that it is necessary to burden appellees' ability to communicate their message in order to meet its concerns." *Meyer v. Grant* (1988), 486 U.S. 414. However, the Court did not address whether a state may regulate the manner in which circulators are paid.

Although the United States Supreme Court has not ruled on the constitutionality of prohibiting payment for signature collection on a per-signature basis, a number of federal courts have considered challenges to such laws and arrived at different legal conclusions. The Second, Eighth, and Ninth Circuit Courts of Appeals have upheld per-signature payment bans. Notably, the Ninth Circuit Court of Appeals ruled that an Oregon law prohibiting payment to signature gatherers on a piece-work or per-signature basis did not violate the First Amendment. *Prete v. Bradbury* (9th Cir. 2006), 438 F.3d 949. The Court held that the restriction did not

impose a "severe burden" on free speech rights and that the Oregon law was reasonably related to an "important regulatory interest in preventing fraud and its appearances in its electoral processes."

On the other hand, the Sixth Circuit Court of Appeals struck down an Ohio law prohibiting paying petition signature gatherers on any basis other than time worked. *Citizens for Tax Reform v. Deters* (6th Cir. 2008), 518 F. 3d 375. The Court noted that, while eliminating election fraud is a compelling state interest, "there is no evidence in the record that most, many, or even more than a de minimis number of circulators who were paid by signature engaged in fraud in the past." The Court observed that "[t]here is little dispute that operating under a per-time-only system will increase the costs" of qualifying an initiative on the ballot. Federal district courts have also struck down per-signature payment bans in other states, including in Colorado, Maine, Mississippi, and Washington.

Petition Fraud. According to information from the SOS, between 2016 and 2021, the SOS opened 20 cases investigating potential petition fraud, of which six cases were referred for prosecution. These figures do not include petition fraud investigations that may have been conducted by other law enforcement agencies. Between 2012 and 2016, the SOS estimates that there were 10 convictions resulting from SOS referrals. However, this may be an undercount as prosecutors do not always report to the SOS whether they prosecute a case or its outcome.

Comments

According to the author, the determining factor for getting a particular measure on the ballot too often has less to do with its merits and more to do with the depth of the pockets of its proponents. By virtue of the compensation structure under which they work, professional signature gatherers have powerful incentives to traffic in misleading information and outright falsehoods in order to induce as many voters as possible to sign in the minimum amount of time.

This collision, between economic self-interest and the public interest, has a direct and damaging impact on the integrity of direct democracy in our state. Other US states have recently examined the issues surrounding petitions and paid signature gatherers and adopted legislation prohibiting per-signature bounties. These states include Colorado, Montana, North Dakota, Oregon, and South Dakota. California should do the same. California should do the same. Our democracy and governance will be the better for it.

Related/Prior Legislation

AB 1451 (Low, 2019) would have prohibited paying petition circulators on a per-signature basis, similar to this bill, and would have required that 10% of the signatures on a state initiative petition be collected by either unpaid circulators or employees or members of a nonprofit. Governor Newsom vetoed the bill, stating: "While I appreciate the intent of this legislation to incentivize grassroots support for the initiative process, I believe this measure could make the qualification of many initiatives cost-prohibitive, thereby having the opposite effect. I am a strong supporter of California's system of direct democracy and am reluctant to sign any bill that erects barriers to citizen participation in the electoral process."

SB 1394 (Newman, 2018) was very similar to this bill. It was held in the Assembly.

AB 1947 (Low, 2018) and SB 168 (Corbett, 2011) both would have prohibited paying petition circulators on a per-signature basis, similar to this bill. Governor Brown vetoed both bills.

SB 34 (Corbett, 2009) would have prohibited paying petition circulators on a per-signature basis. Governor Schwarzenegger vetoed the bill.

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

According to the Assembly Appropriations Committee:

1) Department of Justice costs of $340,000 in fiscal year 2021-22, and $588,000 annually thereafter, to implement the provisions of the bill (General Fund). Costs will be offset by penalty revenue, the magnitude of which is unknown (PSFA).

2) Workload cost pressures of an unknown amount 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.

3) Potential increased penalty revenue for the SOS to support voter registration and education efforts (SFVE subaccount).

SUPPORT: (Verified 9/2/21)

California Professional Firefighters

OPPOSITION: (Verified 9/2/21)

California Chamber of Commerce
Howard Jarvis Taxpayers Association
League of Women Voters of California
Southwest California Legislative Council

ARGUMENTS IN SUPPORT: In a letter supporting SB 660, the California Professional Firefighters stated, in part, the following, "While it is currently a misdemeanor action to compensate someone directly for their signature on a petition, loopholes exist in current law that allow groups to compensate their employees, contractors, or volunteers in a manner that is directly related to the number of signatures that they obtain. This provides explicit incentive to those individuals to obtain as many signatures in their time working as possible, encouraging potentially dishonest or otherwise fraudulent methods to ensure a higher payout. California's referendum system is too important to allow for financial motivation to influence what measures are placed before the voters, and for these reasons, we urge your support of this important measure."

ARGUMENTS IN OPPOSITION: In a letter opposing SB 660, the League of Women Voters of California stated, in part, the following, "The League believes that impeding compensation for signatures gathered for initiative, referendum, or recall petitions could interfere with and have a chilling effect on citizens' right of direct legislation through the initiative and referendum process. We are concerned that it would promote inequity by driving up costs of the initiative process in a manner that favors wealthy interests. … This bill dramatically changes a long-established democratic process with the rationale that it is necessary to protect against fraud. There is, however, no compelling evidence of significant fraud resulting from a per-signature payment system."

ASSEMBLY FLOOR: 51-18, 9/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooper, Frazier, Friedman, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Petrie-Norris, Quirk,

Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood

NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Cooley, Daly, Gabriel, Mayes, Nazarian, Nguyen, O'Donnell, Quirk-Silva, Ramos, Rendon

Prepared by: Nicolas Heidorn / E. & C.A. / (916) 651-4106
9/2/21 18:53:16

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

SENATE RULES COMMITTEE SB 790
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 790
Author: Stern (D) and Cortese (D), et al.
Amended: 8/30/21
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 16-0, 4/13/21
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, McGuire, Melendez, Min, Newman, Rubio, Skinner, Umberg, Wilk
NO VOTE RECORDED: Wieckowski

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 4/27/21
AYES: Laird, Jones, Allen, Eggman, Grove, Hertzberg, Hueso, Limón, Stern

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

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

ASSEMBLY FLOOR: 76-0, 9/2/21 - See last page for vote

SUBJECT: Wildlife connectivity mitigation credits

SOURCE: Author

DIGEST: This bill authorizes the California Department of Fish and Wildlife to approve compensatory mitigation credits for certain wildlife connectivity actions that measurably improve habitat connectivity or wildlife migration, such as adding an overpass or underpass for a roadway, as provided.

Assembly Amendments revise wildlife connectivity mitigation credits to be explicitly authorized within the framework of existing programs that provide for mitigation credits; revise and provide explicit criteria to be considered in determining the value of compensatory mitigation credits for a wildlife connectivity action; provide explicitly for the durability of wildlife connectivity actions; require the development of guidelines and criteria to implement the credits; define relevant terms and make additional conforming changes.

ANALYSIS:

Existing law:

1) Provides for the establishment of the Department of Fish and Wildlife (CDFW).

2) Vests CDFW with jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species.

3) Authorizes the establishment of conservation banks, mitigation banks, or conservation and mitigation banks upon approval by and agreement with CDFW, as provided. Related legislative findings and declarations include that these banks "are important tools in mitigating impacts to resources and in conserving a wide range of habitat lands."

4) Establishes the voluntary Regional Conservation Investment Strategy (RCIS) pilot program that identifies and prioritizes regional conservation through a science-based public process while also encouraging investments in conservation through advance mitigation.

5) Authorizes the creation of credits in certain circumstances under both the conservation and mitigation bank program and the RCIS that may be used to fulfill requirements to mitigate impacts to fish and wildlife.

6) Requires CDFW to investigate, study, and identify those areas in the state that are most essential as wildlife corridors and habitat linkages, as well as the impacts to those wildlife corridors from climate change.

7) Provides that the State Department of Transportation (Caltrans) has full possession and control of the state highway system, and requires Caltrans to make improvements to and maintain the state highway system.

a) Caltrans is required to prepare an annual report to the Legislature describing the status of progress in locating, assessing, funding and remediating barriers to fish passage. The most recent report states that in 2018 Caltrans completed remediation activities at five fish passage barrier locations, improving access to an estimated 31 miles of salmonid habitat.

This bill authorizes CDFW to approve compensatory mitigation credits for certain wildlife connectivity actions that measurably improve habitat connectivity or wildlife migration, such as adding an overpass or underpass for a roadway, as provided.

Specifically, this bill:

1) Authorizes CDFW to approve compensatory mitigation credits for wildlife connectivity actions (actions) taken pursuant to RCIS or to conservation or mitigation banks.

   a) If feasible, the action taken is required to permanently protect all real property that is part of the action or where the action is sited in order for compensatory mitigation credits to be granted. If permanent protection is infeasible, compensatory mitigation credits can still be granted if the action has long-term durability and the real property is permanently protected to the extent feasible, as specified.

2) Authorizes CDFW to consider the following when determining the value of compensatory mitigation credits for an action:

   a) Measureable improvement to habitat connectivity and wildlife migration, including improving the ability of wildlife to safely cross or bypass built infrastructure, such as roads.

   b) The value of the habitat connected by the action.

   c) Benefits to affected species, as provided.

   d) Improved connectivity in critical terrestrial habitat linkages including, among others, the Santa Monica Mountains and Rim of the Valley Corridor, as specified.

   e) The use or value of the particular location in improving connectivity and migration, including topography, among other things.

   f) Any other factor that CDFW deems relevant.

3) Authorizes CDFW in evaluating a proposed action to consult with Caltrans, the US Fish and Wildlife Service and other federal agencies, as specified. Requires CDFW to consult with Caltrans if the action or any part of it is located on the right-of-way of an existing state highway.

4) Authorizes a compensatory mitigation credit to be used to fulfill compensatory mitigation requirements established under any state or federal environmental law, as provided. These include to compensate for take or reduce adverse impacts under the California Endangered Species Act; to reduce adverse impacts for activities authorized under a Lake and Streambed Alteration Agreement; and to mitigate significant effects pursuant to the California Environmental Quality Act and its guidelines.

5) Authorizes CDFW to adopt guidelines and criteria to aid in the implementation of actions and compensatory mitigation credits, and to post the guidelines online at CDFW's website. Waives the Administrative Procedures Act for the development, adoption, or amendment of these guidelines or criteria.

6) Defines related terms including:

   a) A Compensatory mitigation credit means a credit that can be used to fulfill mitigation requirements under applicable federal, state, or local law, as provided.

   b) Long-term durability means providing a plan approved by CDFW that ensure the long-term success and upkeep of an action, and ensuring long-term funding for plan implementation. If the action is used to create mitigation credits then the action must remain in effect until at least the site of the environmental impacts is returned to pre-impact conditions, as provided.

   c) Permanent protection means recording of a conservation easement or otherwise establishing perpetual protection of land, as specified, within the area of the applicable action, and securing perpetual funding for land management, monitoring, and enforcement.

   d) Wildlife connectivity action means an action that measurably improves habitat connectivity or wildlife migration, recolonization and breeding opportunities inhibited by built infrastructure or habitat fragmentation.

7) Makes certain related legislative findings and states legislative intent to facilitate creation and issuance of mitigation credits for actions that improve wildlife connectivity.

Background

The state's transportation system can be an obstacle for wildlife seeking to move between different parcels of the same type of habitat. Wildlife-vehicle collisions are a significant threat to public health and safety, and result in numerous animal fatalities. In 2020, CDFW released a list of priority wildlife movement barriers in the state. Approximately 10 of the highest priority projects were identified in each of its six regions. Almost all of these barriers identified were roadways.

According to CDFW, its conservation or mitigation bank program is composed of privately or publicly owned land managed for its natural resource values. In exchange for permanently protecting, managing, and monitoring the land, the bank sponsor is allowed to sell or transfer habitat credits to permittees who need to satisfy legal requirements and compensate for the environmental impacts of certain projects.

In 2017, according to CDFW, the RCIS pilot program was established to encourage a voluntary, non-regulatory regional planning process intended to result in higher-quality conservation outcomes. The RCIS program uses a science-based approach to identify conservation and enhancement opportunities that, if implemented, will help California's declining and vulnerable species by protecting, creating, restoring, and reconnecting habitat, and may contribute to species recovery and adaptation and resilience to climate change. There are three components: regional conservation assessments, regional conservation investment strategies, and mitigation credit agreements. There are four approved RCIS, two in the works, and a mitigation credit agreement pilot program is under development. According to the most recent CDFW report, RCIS projects in various stages of approval cover almost 10 million acres (10% of the state).

Under SB 1 (Beall, Chapter 5, Statutes of 2017), an Advance Mitigation Program was created at Caltrans to protect natural resources through transportation project mitigation, among other things. The requirement is to mitigate environmental impacts from transportation infrastructure projects to the maximum extent required by law. Caltrans is required to consult with CDFW. Funds available within the program can be used to purchase or fund the purchase of credits from mitigation banks, or conservation banks; prepare a regional conservation assessment and RCIS; and participate in a mitigation credit agreement through an approved RCIS or perform mitigation to advance the RCIS, among other things.

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

According to the Assembly Appropriations Committee:

1) Unknown, likely moderate, costs to the DFW for permitting and banking, coordinating connectivity crediting activities, and project review and approvals.

2) Caltrans notes the department could realize project time savings and cost savings through the bill's environmental mitigation programs. Caltrans estimates its costs to assist with establishing those programs would be minor and absorbable.

SUPPORT: (Verified 8/31/21)

Action for Animals
Amah Mutsun Tribal Band
Animal Legal Defense Fund
Animal Welfare Institute
Animazonia Wildlife Foundation
Arroyos & Foothills Conservancy
Biodiversity First!
Brentwood Alliance of Canyons & Hillsides
California Chaparral Institute
California Council for Wildlife Rehabilitators
California Institute for Biodiversity
California Native Plant Society
California Waterfowl Association
California Wildlife Center
California Wildlife Foundation
Center for Biological Diversity
Citizens for Los Angeles Wildlife
City of Thousand Oaks
Coastal Ranches Conservancy
Cougar Conservancy
County of Ventura
Defenders of Wildlife
Endangered Habitats League
Escondido Creek Conservancy
Extinction Rebellion SF Bay
Federation of Hillside and Canyon Associations, Inc.
Felidae Conservation Fund
Friends of Harbors, Beaches and Parks

Happy Hen Animal Sanctuary
Hills for Everyone
In Defense of Animals
Laguna Greenbelt, Inc.
Land Trust of Santa Cruz County
Laurel Canyon Land Trust
Live Oak Associates, Inc.
Los Padres ForestWatch
Madrone Audubon Society
Midpeninsula Regional Open Space District
Mojave Desert Land Trust
Mountain Lion Foundation
Mountains Recreation and Conservation Authority
National Wildlife Federation
Nature for All
North County Watch
Ojai Valley Green Coalition
Orange County Transportation Authority
Pathways for Wildlife
Paula Lane Action Network
PETA
Placer Land Trust
Planning and Conservation League
Poison Free Agoura
Poison Free Malibu
Preserve our Rural Communities
Preserve Wild Santee
Protect San Benito
Raptors Are the Solution
San Bernardino Valley Audubon Society
Santa Barbara Audubon Society
Santa Clara Valley Audubon Society
Santa Clara Valley Open Space Authority
Santa Monica Mountains Fund
Santa Susana Mountain Park Association
SC Wildlands
Sierra Club California
Social Compassion in Legislation
Sonoma County Agricultural Preservation and Open Space District
Temescal Canyon Association

The Cougar Fund
The Honorable Linda Parks, Supervisor, County of Santa Barbara
The Humane Society of the United States
The Trust for Public Land
Ventana Wilderness Alliance
Ventura Coastkeeper
Ventura County Transportation Commission
Voters for Animal Rights
Western Watersheds Project
WildCare
WildFutures
Wildlands Network
Wishtoyo Foundation

OPPOSITION: (Verified 8/31/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "[a]s Californians respond to the changing nature of our state due to natural events, such as fires, drought, and flooding, the impact of these same events on wildlife are often overlooked. In recent years the changing face of our state has resulting in changing migration patterns and habitats for much of California's wildlife. In seeking out shelter, food, and water, wildlife will risk crossing roads and railways which results in expensive vehicle collisions, injury, and death. The wildlife-vehicle collisions reported in 2018 alone caused 314 instances of injury, an estimated 5 deaths, and over $230 million in economic and social costs in California. It is critical that we take steps to ensure that wildlife can migrate safely to prevent further harm to California's unique biodiversity as well, and prevent additional harm to California residents."

ASSEMBLY FLOOR: 76-0, 9/2/21
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, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca

Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood
NO VOTE RECORDED: Kiley, Nguyen, Rendon

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
9/2/21 18:53:19

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

SENATE RULES COMMITTEE SCR 60
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 60
Author: Nielsen (R), et al.
Introduced: 8/19/21
Vote: 21

SUBJECT: Art Therapy Week of Civic Engagement

SOURCE: Northern California Art Therapy Association

DIGEST: This resolution recognizes the week of October 10, 2021 through October 16, 2021, and every year on these dates thereafter, as Art Therapy Week of Civic Engagement to commemorate the contributions of professional art therapists to California's communities.

ANALYSIS: This resolution makes the following legislative findings:

1) Art therapy is an integrative mental health profession that combines knowledge and understanding of human development and psychological theories and techniques obtained through graduate level education in psychology in addition to practice of the visual arts and the creative process. Art therapy provides a unique approach to help consumers of mental health services improve their psychological health, cognitive abilities, and sensory motor functions.

2) The field of art therapy is growing and the professional, academic, and research foundation is expanding. A master's degree, including clinical fieldwork, is required for entry-level practice in art therapy. Supervised postgraduate clinical hours are also required to obtain registration as an art therapist.

3) Art therapy uniquely promotes the ability to unlock emotional expression by facilitating nonverbal as well as verbal communication.

4) Art therapy is practiced in many settings, including in behavioral health and substance abuse treatment, as well as in rehabilitation, medical, educational, community, and forensic settings. Additionally, art therapy is practiced in private practice, workshops, and small-group settings. Clients come to art therapy from all walks of life, facing a full array of challenges. Individuals,

couples, families, and community groups all benefit from various art therapy formats.

5) Art therapists provide critical services, such as nonverbal art-making therapy, that help a client discharge acute stress accumulated during critical incidents, which are traumatic or disaster-like experiences.

6) Art therapists advocate for the dignity, self-worth, well-being, and creative potential of all people. Art therapists maintain awareness of the social and environmental consequences of human actions on the communities, ecosystems, and associations that they interact with. Art therapists strive to advance a sustainable and just society.

7) California is home to 625 registered art therapists according to the Art Therapy Credentialing Board.

8) October is an especially fitting month to appreciate the field of art therapy because it is Mental Health Month, and the American Art Therapy Association will be hosting its national conference in San Diego.

This resolution recognizes the week of October 10, 2021, to October 16, 2021, inclusive, and those dates annually thereafter, as California Art Therapy Week of Civic Engagement to commemorate the contributions of professional art therapists to California's communities.

Background

Art therapy uses artistic methods to help people explore emotions, develop self-awareness, cope with stress, boost self-esteem, and work on social skills. It is also used to treat psychological disorders and enhance mental health.

Art therapy has been especially helpful to residents following traumatic events like the wildfires that have ravaged California, the mudslides that followed the Thomas Fire in Carpinteria, and the mass shooting incident at the Borderline Bar and Grill in Thousand Oaks. Art therapists have also provided virtual support groups throughout the pandemic, helping those experiencing anxiety or grief maintain a healthy mindset.

Art therapists and art therapy programs are essential to the public in mental health, healthcare, education, arts, and community programs and it is fitting that the Legislature formally commemorate the contributions of art therapists to California's communities.

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

SUPPORT: (Verified 8/30/21)

Northern California Art Therapy Association (source)
American Art Therapy Association
Southern California Art Therapy Association

OPPOSITION: (Verified 8/30/21)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
9/1/21 19:25:22

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

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

THIRD READING

Bill No: SCR 61
Author: Dahle (R)
Introduced: 8/24/21
Vote: 21

SUBJECT: Prostate Cancer Awareness Month

SOURCE: California Prostate Cancer Coalition

DIGEST: This resolution proclaims the month of September 2021 as Prostate Cancer Awareness Month.

ANALYSIS: This resolution makes the following legislative findings:

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

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

3) The five-year survival rate approaches 100 percent when prostate cancer is diagnosed and treated early, but drops to 29 percent when it spreads to other parts of the body.

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

5) The American Cancer Society recommends that a man should have an opportunity to make an informed decision about whether to be tested for prostate cancer based on personal values and preferences.

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

This resolution:

1) Proclaims the month of September 2021 to be Prostate Cancer Awareness Month in California.

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

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

Related/Prior Legislation

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

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

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

SUPPORT: (Verified 8/31/21)

California Prostate Cancer Coalition (source)

OPPOSITION: (Verified 8/31/21)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
9/1/21 19:25:23

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

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

UNFINISHED BUSINESS

Bill No: SJR 1
Author: Allen (D)
Amended: 6/17/21
Vote: 21

SENATE EDUCATION COMMITTEE: 4-2, 3/24/21
AYES: Leyva, Cortese, Glazer, Pan
NOES: Ochoa Bogh, Dahle
NO VOTE RECORDED: McGuire

SENATE FLOOR: 29-6, 4/26/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener
NOES: Dahle, Grove, Jones, Melendez, Ochoa Bogh, Wilk
NO VOTE RECORDED: Bates, Borgeas, Limón, Nielsen, Stern

ASSEMBLY FLOOR: 55-13, 8/30/21 - See last page for vote

SUBJECT: Student loan debt

SOURCE: Author

DIGEST: This bill requires the Secretary of the Senate to transmit copies of a resolution urging the President of the United States to forgive up to $50,000 of student loan debt per student borrower to defined individuals.

Assembly Amendments update facts and figures based on recent student loan data reports and fix a drafting error.

ANALYSIS: Existing federal law provides for student loans through the William D. Ford Federal Direct Loan Program, administered by the Federal Student Aid Office within the U.S. Department of Education (USDE). These include:

1) *Direct Subsidized Loans*. These are needs-based loans that cover the difference between a student's resources and the cost of attending a college or university, the amount of loan is dependent on the level of need, dependent status, and year in college. The federal government pays the interest while the student is attending the college or university and subsidizes the interest throughout the life of the loan.
2) *Direct Unsubsidized Loans.* Not based on financial need, these loans generally cover the difference between other financial aid received and the total cost of attending college. Loans are made to eligible undergraduate, graduate, and professional students. The student is responsible for paying the interest during all periods. Federal government sets the interest rates and fees.
3) *Parent Loans for Undergraduate Students (PLUS)*. These are available to creditworthy parents of dependent students. These are not need-based and are federally guaranteed. In addition, these types of loans have been expanded for graduate or professional degree students. The borrower is responsible for paying the interest on PLUS loans during all periods, starting from the date the loan is first disbursed.
4) *Direct Consolidation Loans.* Allow for consolidation of multiple federal education loan into one loan with a fixed interest rate at no cost.

This resolution:

1) Resolves that the Senate and the Assembly of the State of California, jointly, urge the President of the U.S. to protect student loan borrowers by taking executive action to cancel up to $50,000 of student loan debt per borrower.

2) Makes a number of findings related to student loan debt including:

   a) The U.S. is facing historic public health and economic crises caused by the COVID-19 pandemic.

   b) Student loan debt in the U.S. has increased by more than 100 percent over the last 10 years.

   c) The Federal Reserve estimates that in 2020, over 43 million people owed more than $1.7 trillion in student loans, up from $845 billion 2010.

   d) The USDE reports that as of September 2020, roughly one in ten borrowers with federal student loans were in default.

   e) More than 3.5 million California borrowers owe $140.1 billion in federal student loan debt.

f) The average California borrower owes $36,351 in student loans, and over 500,000 California borrowers are behind on their student loan payments.

g) The increasing cost of higher education has created an unprecedented financial burden that represents a major drag on the economy, and has caused a generation to postpone traditional life milestones.

h) In 2019, the Assembly announced a new Select Committee on Student Debt, making California the first state in the nation to create a legislative committee focused on the problems facing millions of borrowers struggling under historic student debt.

i) In March 2020, the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act put into place a pause on federal student loan payments and interest, which has since been extended through September 2021.

j) Democrats in the U.S. House of Representative and U.S. Senate have introduced resolutions urging President Biden to broadly forgive up to $50,000 of federal student debt per borrower through executive action.

Comments

1) *Need for this resolution*. According to the author, "In California alone, over more than 3.5 million California borrowers owe $140.1 billion in student loan debt, and the average California borrower owes $36,351 in student loans. Over 500,000 California borrowers are behind on their student loan payments. These debts not only limit people's ability to participate in the economy, but they also set folks behind on investing in their future. This kind of debt has been shown to lead to increased stress and has a toll on mental health.

   "Though there is currently a federal tax deduction for interest paid on student loan debt, there is little relief for those struggling with high student loan debt. While California mirrors this federal deduction, there are no forms of relief for those with high student loan debt in the state."

2) *Student loan debt*. According to The Institute for College Access and Success (TICAS) and its Project on Student Debt, 62 percent of seniors who graduated from *public* and *private nonprofit colleges* in 2019 had student loan debt, with an average nationally of $28,950 per borrower. TICAS reports that the share of graduates with debt declined very slightly (less than 1%) from the 2018 average of 29,200. TICAS also reports that average debt in California is $21,485 at public and private non-profit colleges and that about 47 percent of students graduate with debt, ranking California fourth lowest nationally. For-profit

colleges are not included in the state averages because few of these colleges report relevant debt data. As such, average debt in California with for-profit colleges included could be higher. The report notes, although student loan debt is slowing, the public health crisis has already reshaped the higher education landscape in important ways and has placed profound financial pressures on states, colleges, and students that could already be making college less affordable and increase reliance on student debt.

3) *Existing federal loan forgiveness programs.* The USDE provides a variety of student loan forgiveness programs. These include the following:

   a) *The Public Service Loan Forgiveness (PSLF) Program*. Forgives the remaining balance on Direct Loans after a student makes 120 qualifying monthly payments under a qualifying repayment plan while working full-time for a qualifying employer. A qualifying employer can include Government organizations at any level (federal, state, local, or tribal), tax-exempt Section 501(c)(3) not-for-profit organizations and other types of not-for-profit organizations that provide certain types of qualifying public services. Serving in a full-time AmeriCorps or Peace Corps position also counts as qualifying employment for the PSLF Program.

   b) *Temporary Expanded Public Service Loan Forgiveness*. The program allows a borrower to seek reconsideration for loan forgiveness, if a PSLF application was denied due to some or all of the payments not made on a qualifying repayment plan for PSLF.

   c) *Teacher Loan Forgiveness*. A loan recipient can qualify for as much as $17,500 of subsidized or unsubsidized loan forgiveness for teaching full-time in a low-income elementary or secondary school or educational service agency for five consecutive years.

   d) *Closed School Discharge.* Discharges federal student loans for students whose school closes while enrolled or soon after withdrawing from the school. Eligible borrowers are eligible for a 100 percent discharge of subsidized and unsubsidized federal loans.

   This resolution urges the cancelation of up to $50,000 of student loan debt per borrower.

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

SUPPORT: (Verified 8/30/21)

None received

OPPOSITION: (Verified 8/30/21)

None received

ASSEMBLY FLOOR: 55-13, 8/30/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Chen, Daly, Flora, Frazier, Lorena Gonzalez, Grayson, Kiley, Lackey, Mathis, Mayes, Nguyen

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
8/31/21 16:39:27

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

SENATE RULES COMMITTEE SR 47
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 47
Author: Borgeas (R), et al.
Amended: 8/16/21
Vote: Majority

SUBJECT: 20th Anniversary of September 11th

SOURCE: Author

DIGEST: This resolution acknowledges the 20th anniversary of the terrorist attacks of September 11, 2001, recognizes September 11th of each year as a day of remembrance and service, and calls upon all Californians to participate in appropriate observances to remember those who lost their lives in the terrorist attacks of September 11, 2001, as a symbol of our love for them, their families, and our own communities, cities, and nation.

ANALYSIS: This resolution makes the following legislative findings:

1) On September 11, 2021, the nation will observe the 20th anniversary of America's darkest day and, in doing so, will honor the heroes and the casualties of the most shocking, barbaric, and catastrophic act of inhumanity in modern history.

2) Twenty years ago, on September 11, 2001, terrorists hijacked four separate airline flights, carrying 266 people, all bound for California. All four flights crashed with no survivors, and almost 3,000 men, women, and children who were citizens of more than 70 countries were killed at the World Trade Center, the Pentagon, and in Shanksville, Pennsylvania. These acts of terrorism caused the destruction of the two prominent World Trade Center towers, nearby buildings, a portion of the Pentagon building, and four airline jets, and the loss of innocent American lives and countless injuries to many others. Over 400 public safety personnel gave their lives in response to those emergencies.

3) Twenty years after the attacks, Californians, Americans, and people around the world continue to mourn the tremendous loss of innocent life on that historic day.

4) After 20 years, the thoughts and prayers of Californians remain with the victims of the September 11, 2001, attacks and with the victims' families, friends, and loved ones.

5) Californians join the American public in pouring out their hearts in grief and sympathy for the family and friends of those who perished or suffered injuries in the attacks.

6) The Senate salutes and remembers the hundreds of heroic men and women of the police and fire departments, paramedics, and medical personnel who put their safety at risk and lost their lives or were seriously injured in their courageous efforts to protect and serve their fellow citizens.

7) The Senate is eternally grateful to the valiant men and women of our Armed Forces, those who have fallen, those who have been wounded, and those who continue to combat terrorism around the world.

This resolution:

1) Acknowledges the 20th anniversary of the terrorist attacks of September 11, 2001.

2) Continues to recognize September 11th of each year as a day of remembrance and service, and calls upon all Californians to participate in appropriate observances to remember those who lost their lives in the terrorist attacks of September 11, 2001, as a symbol of our love for them, their families, and our own communities, cities, and nation.

3) Encourages Californians to honor the memory of those who died by observing September 11, 2021, with an act of service to their fellow Californians, whether that act is donating blood, visiting a nursing or veteran's home, volunteering at a children's hospital, mentoring neighborhood students, donating clothing to a homeless shelter, or some other act of giving.

4) Expresses thanks and gratitude to the foreign leaders and citizens of all nations who have assisted and continue to stand in solidarity with the United States against terrorism in the aftermath of the attacks on September 11, 2001, and asks them to continue to stand with the United States against international terrorism.

5) Reaffirms that the American people will never forget the sacrifices made on September 11, 2001.

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

SUPPORT: (Verified 8/26/21)

California Professional Firefighters

OPPOSITION: (Verified 8/26/21)

None received

ARGUMENTS IN SUPPORT: According to the California Professional Firefighters,

> SR 47 commemorates September 11, 2001, when terrorists hijacked four civilian aircraft, crashing two of them into the towers of the World Trade Center in New York City and a third into the Pentagon near Washington, DC. Nearly 3,000 innocent civilians were killed during these unconscionable attacks and over 400 public safety personnel gave their lives in response to those emergencies. As the towers burned and people fled for safety, hundreds of firefighters and other public safety officers ran towards the danger and put their lives on the line to save countless individuals.
>
> In the wake of that tragic day, firefighters from all over in the country including California traveled to New York City to assist with search and rescue efforts, pulling survivors from the rubble, locating the fallen, and assisting whoever they could in their time of need. These selfless acts continue to have lasting impacts on those rescue workers 20 years later, and their diligent work and sacrifice should never be forgotten.
>
> The tragic loss of so many of our fellow first responders, as well as the members of their communities they gave their lives for, still reverberates through all members of the public safety community. SR 47 honors our fallen comrades and reaffirms that the American people will never forget

the sacrifices made on September 11, 2001. For these reasons, we are pleased to support this resolution.

Prepared by: Jonas Austin / SFA / (916) 651-1520
8/26/21 16:52:41

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

SENATE RULES COMMITTEE SR 52
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 52
Author: Min (D)
Introduced: 8/18/21
Vote: Majority

SUBJECT: History of baseball in Asian and Pacific Islander communities

SOURCE: Author

DIGEST: This resolution recognizes the history of baseball in Asian and Pacific Islander communities and celebrates the contributions Asians and Pacific Islanders have made to the sport.

ANALYSIS: This resolution makes the following legislative findings:

1) While baseball has traditionally been considered America's pastime, the sport has deep roots in Asian American and Pacific Islander cultures and communities.

2) In 1872, Baseball was introduced in Japan by Horace Wilson, an American English teacher at the Kaisei Academy in Tokyo, and became the national sport in Japan during the early post-World War II period.

3) The first generation of Japanese immigrants, referred to as Issei, started to form their own baseball teams after settling in the United States. In 1899, the first recorded Japanese American baseball team was formed in Hawaii by Reverend Takie Okumura. The sport would quickly gain popularity in Hawaii, with organized leagues flourishing by the early 1900s.

4) The earliest known mainland Japanese American baseball team is the San Francisco Fuji Athletic Club, which formed in 1903. Several other California cities developed Issei teams throughout the early twentieth century, including Los Angeles, San Diego, and Fresno.

5) On September 16, 1956, Bobby Balcena, of Filipino heritage, became the first person of Asian descent to play in Major League Baseball, appearing as a center fielder for the Cincinnati Redlegs, now called the Reds.

6) Kim Ng made history in November 2020, as the first woman and first Asian American general manager in Major League Baseball. Ng has won three World Series rings while spending 21 years in the front offices of the Chicago White Sox, New York Yankees, and Los Angeles Dodgers.

7) Ichiro Suzuki, from Japan, is considered among the greatest baseball players of all time. He was named an MLB All-Star 10 times, won the MLB American League Most Valuable Player and Rookie of the Year awards in 2001, and won the Gold Glove Award 10 times. He leads all MLB Asian players in most offensive categories, including hits (2,771), doubles (327), triples (83), batting average (.319), stolen bases (476), runs (1,275) and walks (554).

This resolution recognizes the history of baseball in Asian and Pacific Islander communities and celebrates the contributions Asians and Pacific Islanders have made to the sport.

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

SUPPORT: (Verified 8/23/21)

None received

OPPOSITION: (Verified 8/23/21)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
8/25/21 14:14:32

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

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

THIRD READING

Bill No: SR 58
Author: Pan (D)
Introduced: 8/23/21
Vote: Majority

SUBJECT: Concrete Pipe Week

SOURCE: Author

DIGEST: This resolution encourages the attention of the public be drawn to the reinforced concrete pipe and precast industry for its numerous contributions to the enhancement of the quality of life in California, and that the period between August 15 and August 21, 2021, be recognized as Concrete Pipe Week.

ANALYSIS: This resolution makes the following legislative findings:

1) The week of August 15 through August 21, 2021, has been declared Concrete Pipe Week for the purpose of recognizing the vital importance of reinforced concrete pipe and precast products to sustainable communities and the health, and well-being of the people of California.

2) These resilient products are critical in the state's efforts to withstand the impact of climate change and wildfires.

3) Reinforced concrete pipe, precast products, and services could not be provided without the dedicated efforts of the concrete pipe and precast industry manufacturers, professionals, engineers, managers, and employees who are together responsible for designing, manufacturing, distributing, educating, and supplying concrete pipe and precast products to public and private owners who in turn build, design and maintain transportation infrastructure, water supply, water treatment systems, solid waste systems, and other structures and facilities essential to modern society.

4) Celebrating its 114th anniversary during the year 2021, the American Concrete Pipe Association began as a means of exchanging ideas and establishing a high-

quality, standardized product, which is fully supported by the American Concrete Pipe Association of California.

5) Over the years, numerous residents and civic leaders throughout California have gained knowledge and maintained a progressive interest and understanding of the importance of the reinforced concrete pipe industry to every community throughout California and the United States.

This resolution encourages the attention of the public be drawn to the reinforced concrete pipe and precast industry for its numerous contributions to the enhancement of the quality of life in California, and that the period between August 15 and August 21, 2021, be recognized as Concrete Pipe Week.

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

SUPPORT: (Verified 9/1/21)

None received

OPPOSITION: (Verified 9/1/21)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
9/1/21 19:25:24

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

SENATE RULES COMMITTEE SR 59
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SR 59
Author: Becker (D), et al.
Introduced: 8/25/21
Vote: Majority

SUBJECT: Ruby Bridges Walk to School Day

SOURCE: Author

DIGEST: This resolution proclaims November 14, 2021, and each November 14 thereafter, as Ruby Bridges Walk to School Day in the State of California.

ANALYSIS: This resolution makes the following legislative findings.

1) On November 14, 1960, six-year-old Ruby Bridges was one of six African American children to pass the test that determined whether or not they could go to the all-White William Frantz Elementary School in New Orleans, Louisiana. Of the six children who passed the test, two of the children decided to stay at their old school, and Ruby Bridges went to William Frantz Elementary School by herself, as the only African American pupil to attend the school.

2) Every day, United States Marshals had to escort young Ruby and her mother to school, where a crowd of people who did not want her at the school yelled at her. Former United States Deputy Marshal Charles Burks later recalled that Ruby "showed a lot of courage, she never cried, she didn't whimper, she just marched along like a little soldier".

3) As soon as Ruby entered the school, White parents pulled their own children out, and all the teachers except one refused to teach while a Black child was enrolled in the school. Barbara Henry was the only teacher that would teach Ruby Bridges and for the entire year Ms. Henry taught Ruby Bridges alone in the classroom. Despite the threats and protests, the Bridges family was determined to keep sending Ruby to school and she did not miss a single day of class that year.

4) Ms. Bridges went on to graduate from a desegregated high school, become a travel agent, marry, and raise a family; Ms. Bridges also wrote two books about her experiences as a child and she received the Carter G. Woodson Book Award for her work.

5) In 1999, Ruby Bridges established the Ruby Bridges Foundation to promote tolerance and create change through education and in 2000, Ms. Bridges was made an honorary deputy marshal in a ceremony in Washington, D.C..

6) In 2006, Alameda Unified School District decided to name a new school after Ms. Ruby Bridges as a way to inspire and teach a new generation of pupils about Ms. Bridges' lifelong activism for racial equality.

7) Every year on November 14, pupils, staff, and teachers at Ruby Bridges Elementary School and other participating schools honor Ms. Bridges and the courage she carried to walk through the doors of William Frantz Elementary School in 1960 by gathering before school begins, and pupils are asked to line up and walk through the school's gates while teachers, staff, and families welcome the pupils with words of love and encouragement to start the day.

This resolution proclaims November 14, 2021, and each November 14 thereafter, as Ruby Bridges Walk to School Day in the State of California, and in those years when November 14 falls on a Saturday or Sunday, Ruby Bridges Walk to School Day will be celebrated on the following Wednesday.

Comments

The author states, "SR 59 establishes November 14 as Ruby Bridges Walk to School Day to commemorate Ruby Bridges, who in 1960 became one of the first Black students to integrate in the South. At the tender age of six, U.S Federal Marshals escorted Ruby Bridges had to her all-white school. On that day, what she believed to be a rambunctious crowd of celebrating adults was in reality an angry white mob. Undeterred, Ruby Bridges continued her education at her new school. The images captured on her first day motivated a country to reevaluate school segregation and racial equality. Ruby Bridges is a continuing reminder that our children can be courageous and stand up to injustice with dignity and grace."

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

SUPPORT: (Verified 8/31/21)

None received

OPPOSITION: (Verified 8/31/21)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
9/1/21 19:25:25

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

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

THIRD READING

Bill No: AB 14
Author: Aguiar-Curry (D), Bloom (D), Cristina Garcia (D), Eduardo Garcia (D), Low (D), Petrie-Norris (D), Quirk (D), Quirk-Silva (D), Reyes (D), Robert Rivas (D), Santiago (D), Stone (D), Weber (D) and Bonta (D), et al.
Amended: 9/2/21 in Senate
Vote: 27 - Urgency

SENATE ENERGY, U. & C. COMMITTEE: 11-1, 7/5/21
AYES: Hueso, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NOES: Dahle
NO VOTE RECORDED: Borgeas, Grove

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 62-7, 6/2/21 - See last page for vote

SUBJECT: Communications: broadband services: California Advanced Services Fund

SOURCE: Author

DIGEST: This bill extends the sunset for the California Advanced Services Fund (CASF) surcharge, allows the California Public Utilities Commission (CPUC) to limit cost-shifts for the surcharge, and authorizes the CPUC to collect specified information about affordable internet plans from internet service providers.

Senate Floor Amendments of 9/2/21 delete provisions related to the California Department of Education (CDE) and address chaptering issues with SB 156 (Senate Budget and Fiscal Review Committee, Chapter 112, Statutes of 2021) and SB 4 (Gonzalez, 2021).

ANALYSIS:

Existing law:

1) Establishes the CASF, which is administered by the CPUC to fund broadband infrastructure deployment in unserved areas. (Public Utilities Code §281)

2) Specifies that the goal of the CASF is to, by December 31, 2026, approve funding for infrastructure projects that will provide broadband access to no less than 98 percent of California households in each consortia region, as identified by the commission on or before January 1, 2022. (Public Utilities Code §281(b))

3) Defines an unserved area for the purposes of CASF eligibility as an area for which there is no facility-based broadband provider offering at least one tier of broadband service at speeds of at least 25 mbps downstream, 3 mbps upstream, and a latency that is sufficiently low to allow real time interactive applications, based on updated federal and state broadband mapping data. (Public Utilities Code §281(b))

4) Requires the CPUC to prioritize CASF projects in unserved areas where internet connectivity is available only at speeds at or below 10 mbps downstream and one mbps upstream or areas with no internet connectivity. (Public Utilities Code §281(b))

5) Requires the CASF to deploy infrastructure capable of speeds of at least 100 mbps downstream and 20 mbps upstream. (Public Utilities Code §281(f))

6) Allows the CPUC to collect a surcharge to fund the CASF until December 31, 2022, and establishes accounts within the CASF. Existing law establishes specified minimum funding amounts for each account within the CASF. (Public Utilities Code §281(d))

7) Caps the amount of revenue the CPUC may collect for the CASF at no more than $66 million per year or $330 million total, unless the CPUC determines that collecting a higher amount in any year would not increase the total amount of total surcharges collected per year. (Public Utilities Code §281(d))

8) Defines Voice over Internet Protocol (VoIP) as a service enabling two-way voice communications, requires a broadband connection, and permits the user to receive calls originating over the publicly switched telephone network. (Public Utilities Code §285)

9) Requires the CPUC to direct interconnected VoIP providers to collect surcharges on California intrastate revenues and deposit those funds in the accounts for the state's telecommunications universal service programs, including the CASF. Existing law allows VoIP providers to use one of several specified methods to identify the appropriate surcharge amount or develop an alternative method for calculating their surcharge contributions. (Public Utilities Code §285(e))

10) Requires the CPUC to conduct an interim and final audit of the CASF, which the CPUC must submit to the Legislature by April 1, 2020, and April 1, 2023, respectively. (Public Utilities Code §912)

This bill:

1) Extends the sunset for the CASF surcharge from the end of the 2022 calendar year to December 31, 2032.

2) Deletes existing law allowing VoIP providers to establish alternative methods for calculating their contributions to the CASF.

3) Establishes a $100 million cap on the maximum amount of annual funding the CPUC can collect to fund the Deaf and Disabled Telephone Program (DDTP).

4) Requires each internet service provider to report the following information regarding each free, low-cost, income-qualified, or affordable internet service plan offered by the provider: (a) the plan's cost, including taxes and fees; (b) eligibility requirements; (c) data limitations; (d) number of California residents enrolled; and (e) a description of the provider's outreach efforts to increase awareness about the plan.

Background

The CASF's Role in Addressing the Digital Divide. The CASF is administered by the CPUC to provide grants for broadband infrastructure and adoption. Lack of broadband access generally stems from two primary causes: a lack of sufficient infrastructure and a lack of affordable broadband service. The CASF helps address the degree to which a lack of infrastructure limits broadband access. The CASF is funded by an end user surcharge on in-state telecommunications services. Under existing law, the CASF is scheduled to sunset on December 31, 2022. This bill extends the CASF and its funding through the 2032 calendar year.

This bill makes changes needed to stabilize the CASF's funding. The CASF is one of several Universal Service Fund programs funded through a surcharge on consumers' intrastate telecommunications. Currently, the CASF surcharge is assessed at approximately one percent of a user's in-state telecommunications services. However, existing law allows IP-based telecommunications providers to establish their own alternative methods for calculating their contributions to the CASF. Generally, this authorization has led to proportionately lower CASF revenue collections from VoIP and wireless providers and cost-shifting of CASF revenue obligations to traditional copper telephone users. As more consumers shift to VoIP for telephone service, the projected total amount of revenue the CASF can collect has declined. Prior to December 2020 adjustments to the CASF surcharge rate, the CASF was on track to only collect $187 million out of the $330 million total funding authorized under existing law. Even with surcharge rate increases, the CASF may never collect its total authorized revenue if the revenues disproportionately rely on surcharges paid by traditional telephone users.

The CPUC administers six different Universal Service Fund programs. While each of these programs are administered under different statutes, the CPUC manages their surcharge mechanisms collectively. The CASF and the DDTP are the only two programs that have statutory restrictions that limit the CPUC's ability to shift the Universal Service Fund surcharges to a mechanism that limits cost-shifts between different customer classes. On March 4, 2021, the CPUC opened a rulemaking (R. 21-03-002) to update the surcharge mechanism for the state's Universal Service Fund programs. The first phase of this proceeding is intended to consider shifting the surcharge mechanism for all the Universal Service Fund public purpose programs to a flat surcharge assessed on access lines by January 1, 2022. This bill deletes existing law that authorizes IP-enabled telecommunications providers to establish their own methods for CASF contributions and deletes restrictions related to the DDTP's surcharge. The bill instead caps the total amount of funds that the CPUC can annually collect at no more than $100 million. As a result, this bill eliminates restrictions in existing law that limit the CPUC's ability to take steps in its ongoing rulemaking to reduce cost-shifting and under-collection of Universal Service Fund surcharges.

Related/Prior Legislation

SB 4 (Gonzalez, 2021) extends the CASF and make various changes to the program, including extending and updating the CASF's surcharge and preserving various changes made by recent budget legislation. The bill is currently pending in the Assembly.

SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) made various changes necessary to implement the Budget Act of 2021. The bill provided federal funding for the construction of state-owned middle mile broadband infrastructure and allocated $2 billion of federal funds to the CASF for the purpose of funding projects that deploy last-mile broadband infrastructure.

SB 1130 (Gonzalez, 2020) would have extended and modified the CASF, including increasing minimum speed standards for CASF-funded infrastructure, expanded the communities eligible for the CASF, and set open access requirements for certain infrastructure projects. The bill died in the Assembly.

AB 570 (Aguiar-Curry, 2020) would have extended and modified the CASF, including increasing the minimum speed standards for CASF-funded infrastructure, expanding the communities eligible for CASF monies, allowing the CPUC to collect additional CASF revenue, and authorizing the issuance of up to $1 billion in bonds secured by the CASF. The bill died in the Senate.

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

According to the Senate Appropriations Committee:

- Ongoing cost pressure of up to $150 million annually (CASF) due to authorizing the CPUC, through imposition of a surcharge, to collect up to that amount starting on January 1, 2022, and continuing through the 2032 calendar year or until the commission has approved funding for infrastructure projects that will provide broadband access to no less than 98 percent of California households in each consortia region, whichever occurs first.

- Additional cost pressure is possible due to the likelihood that expanding the areas eligible for CASF funding will increase the number of applications submitted.

- The CDE estimates one-time costs of around $1 million (General Fund or special fund) to update an existing data reporting system, and ongoing costs of $300,000 annually (General Fund or special fund) for staff to support the data-reporting program.

- Unknown one-time and ongoing costs, both likely in the millions of dollars (CASF), for the CPUC to incorporate rule changes into the CASF Proceeding (20-08-021) and adopt multiple new programmatic processes, among other things.

- Minor and absorbable costs for GO-Biz to coordinate with relevant local and state agencies and national organizations to identify opportunities to streamline permitting requirements for broadband infrastructure deployment.

SUPPORT: (Verified 9/1/21)

California State Insurance Commissioner Ricardo Lara
California State Superintendent of Public Instruction Tony Thurmond
3CORE, Inc.
AARP
Association of California Healthcare Districts
Association of California School Administrators
Broadband Connect Initiative
California Cable and Telecommunications Association, if amended
California Commission on the Status of Women & Girls
California County Superintendents Educational Services Association
California Faculty Association
California Federation of Teachers
California Forward Action Fund
California Latino Legislative Caucus
California Legislative Women's Caucus
California Pan-Ethnic Health Network
California State Student Association
California State University, Chico-North State Planning & Develop. Collective
California State University, Fresno-Office of Community & Economic Develop.
California Telehealth Policy Coalition
Central Valley Community Foundation
Cities of Alameda, Arcata, Beverly Hills, Bishop, Brea, Chico, Colton, Fountain Valley, Goleta, Hidden Hills, Inglewood, Lakeport, Lawndale, Los Angeles, Moorpark, Mountain View, Novato, Oceanside, San Pablo, San Rafael, Santa Monica, Thousand Oaks, Torrance, Tustin, Ventura, Vista, Walnut Creek, and Whittier
Community Clinic Association of Los Angeles County
Counties of Alameda, Butte, El Dorado, Imperial, Mariposa, Monterey, Napa, San Diego, Santa Clara, Tulare, and Yuba
Economic Development Collaborative-Ventura County
Economic Vitality Corp. of San Luis Obispo
Eden Housing
Fresno Business Council
GENup
Greater Oxnard Organization of Democrats

Gilroy City Council
Imperial County Transportation Commission
Inland Empire Community Foundation
Kern Community College District
League of California Cities
Local Government Commission
Los Angeles Community College District
Los Angeles County Business Federation
National Association of Social Workers, California Chapter
North Bay Leadership Council
OCHIN
Parent Institute of Quality Education
REACH Central Coast
Sacramento Area Council of Governments
San Diego Association of Governments
San Joaquin Valley Redevelopment Center
Santa Clara County Office of Education
Sierra Business Council
Siskiyou Works
SJV Partnership
South Bay Cities Council of Governments
Stanislaus Community Foundation
Tahoe Prosperity Center
Teach Plus
The Fresno Center
The Greenlining Institute
The Rural Caucus of the California Democratic Party
The Utility Reform Network
UNITE-LA
University of California Student Association
Valley Vision
Western Center on Law & Poverty
Writers Guild of America West
Yuba Community College District

OPPOSITION: (Verified 9/1/21)

California Taxpayers Association

ARGUMENTS IN SUPPORT: According to the author, "The heartbreaking is reality that 1 in 8 California homes do not have internet access and communities of

color face even higher numbers of students and families who remain disconnected. Only miles from our State Capitol there are areas of our state where Californians have no access to broadband connectivity. In partnership with Sen. Gonzalez and nearly two dozen of our Legislative colleagues, we seek to modernize and sufficiently fund the California Advanced Services Fund to provide sufficient service to meet the current and future internet needs of all Californians."

ARGUMENTS IN OPPOSITION: The California Taxpayers Association (CalTax) opposes this bill because it extends an existing surcharge to fund the CASF. In opposition, CalTax states, "Given that California will be receiving $27 billion in federal funds and the governor and legislative leaders announced a historic agreement on broadband infrastructure that would invest $5.25 billion in broadband expansion projects, the Legislature should delay action on AB 14 until it is clear what broadband infrastructure needs remain once federal funds and new state funds have been exhausted."

ASSEMBLY FLOOR: 62-7, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Chen, Davies, Lackey, Nguyen, Patterson, Seyarto, Smith
NO VOTE RECORDED: Bigelow, Boerner Horvath, Megan Dahle, Flora, Fong, Gallagher, Kiley, Mathis, Mayes, Valladares

Prepared by: Sarah Smith / E., U., & C. / (916) 651-4107
9/4/21 7:15:07

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

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

THIRD READING

Bill No: AB 39
Author: Chau (D)
Amended: 9/1/21 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 5-1, 6/9/21
AYES: Leyva, Cortese, Glazer, McGuire, Pan
NOES: Dahle
NO VOTE RECORDED: Ochoa Bogh

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 6/14/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 50-16, 5/13/21 - See last page for vote

SUBJECT: California-China Climate Institute

SOURCE: Author

DIGEST: This bill authorizes the Regents of the University of California (UC) to establish the California-China Climate Institute in partnership with the Institute of Climate Change and Sustainable Development at Tsinghua University and other entities and institutions in China and California.

Senate Floor Amendments of 9/1/21 add the Department of Food and Agriculture among the state entities that may provide guidance and support to the California-China Climate Institute.

ANALYSIS:

Existing law:

1) Establishes the UC, under the California Constitution, as a public trust to be administered by the Regents of the UC with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university, and such competitive bidding procedures as may be made applicable to the university for construction contracts, selling real property, and purchasing materials, goods and services. (Constitution of California, Article IX, Section 9).

2) States, under the California Constitution, that the university be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs. (Constitution of California, Article IX, Section 9 (f)).

3) Provides that statutes related to the UC (and most other aspects of the governance and operation of the UC) are applicable only to the extent that the Regents of the UC make such provisions applicable. (EC § 67400)

4) Declares the UC as the primary state-supported academic agency for research. (EC § 66010.4 (c))

This bill:

1) Authorizes the Regents of the UC to establish the California-China Climate Institute, a UC-wide initiative to accelerate climate action through cooperative efforts and exchange between two of the world's largest economic powers.

2) Requires the institute work closely with UC campuses, departments, and leaders to accomplish its work.

3) Requires the institute operate in partnership with the Institute of Climate Change and Sustainable Development at Tsinghua University and other entities and intuitions in China and California.

4) Provides that to the extent possible, the institute receive guidance and support from expert policy, government, business, academic and climate leaders and advisory committees, including from specified state entities.

5) Specifies the following duties of the Institute:

   a) Fostering collaboration among government, business, academic institutions, and civil society to inform and shape national and subnational climate policy and advance the goals of the Paris Agreement.

   b) Advancing joint policy research on major climate issues, as specified.

   c) Supporting high-level subnational climate dialogue between top government, business, and climate leaders from throughout the United States and China with respect to climate policy, investment and finance.

   d) Providing training to Californian and Chinese researchers, scientists, technical experts, policy makers, and other leaders to advance critical climate and environmental policies, including, but not necessarily limited to, air quality, carbon pricing, carbon emissions, clean energy, and innovation.

Comments

1) *Need for this bill*. According to the author, "The California-China Climate Institute was created through private agreements. It is not statutorily created and can be dissolved despite its important research and without any involvement of the legislature that has placed a high priority on addressing climate change issues. AB 39 will formalize in statute the California-China Climate Institute to make this important research institute permanent."

2) *About the California-China Climate Institute.* In September 2019, former California Governor Edmund G. Brown Jr. helped launch the California-China Climate Institute to promote climate action through joint research, training and dialogue between California and China. The Institute is jointly located at the UC Berkeley, School of Law and the College of Natural Resources. The Institute has a partnership with the Institute of Climate Change and Sustainable Development at Tsinghua University in China.

   Governor Brown leads the institute in partnership with Xie Zhenhua, China's Special Representative for Climate Change Affairs. Governing the institute is a board of top university and government officials, and a network of expert policy and operations staff, business, academic and climate advisory committees helps provide guidance and support.

This Institute is tasked with informing policy makers, promote communication and cooperation, and advance the implementation of climate solutions at all levels government and society. It will provide strategic advice for California's general engagement with China on climate, energy and environment, as well as cover economic development, cultural and education matters by linking climate research with national and subnational climate decision-making processes. This bill essentially codifies existing practice of the California China Climate Institute at the UC. The Institute is currently funded with private funds.

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

According to the Senate Appropriations Committee, this bill provides that the Institute is subject to the availability of private funds so it is not expected to result in additional costs to the state.

SUPPORT: (Verified 8/26/21)

Elders Climate Action, Norcal and Socal Chapters
The Climate Center
The Nature Conservancy

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 50-16, 5/13/21
AYES: Aguiar-Curry, Arambula, Bennett, Berman, Bloom, Burke, Calderon, Carrillo, Chau, Chiu, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Low, Maienschein, Medina, Mullin, Muratsuchi, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Cooley, Cunningham, Megan Dahle, Davies, Gallagher, Kiley, Lackey, Levine, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Bauer-Kahan, Boerner Horvath, Cervantes, Chen, Cooper, Flora, Fong, Lee, Mathis, Mayes, McCarty, Nazarian

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
9/2/21 16:30:23

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

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

THIRD READING

Bill No: AB 41
Author: Wood (D), et al.
Amended: 8/31/21 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 12-0, 7/5/21
AYES: Hueso, Dahle, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Borgeas, Grove

SENATE TRANSPORTATION COMMITTEE: 13-0, 7/13/21
AYES: Gonzalez, Allen, Becker, Cortese, Dahle, Dodd, McGuire, Min, Newman, Rubio, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates, Archuleta, Melendez, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 70-1, 6/1/21 - See last page for vote

SUBJECT: Broadband infrastructure deployment

SOURCE: Author

DIGEST: This bill requires the California Public Utilities Commission (CPUC) to update broadband maps to specified information about local broadband service and it requires the California Department of Transportation (Caltrans) to install conduit for fiber communications lines as part of projects to build a state-owned middle-mile broadband network.

ANALYSIS:

Existing law:

1) Gives the CPUC broad data collection authority while also restricting public access to information submitted to the CPUC by a public utility, subsidiaries or

affiliates of a public utility, or a corporation, which holds a controlling interest in a public utility, except information specifically required to be open to public inspection. Existing law specifies that utility information submitted to the CPUC can be made public through an order of the CPUC through a proceeding or hearing. Any present or former officer or employee of the CPUC who divulges confidential information is guilty of a misdemeanor. (Public Utilities Code §§583-584)

2) Requires Caltrans to notify entities working on broadband deployment about transportation projects suitable for broadband conduit installation prior to construction and develop guidelines to facilitate the installation of broadband conduit on state highway rights-of-way. The guidelines must address access to information on existing assets and collaboration on future projects. (Government Code §14051)

3) Allocates $3.25 billion for the construction of state-owned open-access middle mile broadband infrastructure. Under existing law, Caltrans is responsible for administering contracts for the construction of middle-mile infrastructure in state transportation rights of way. (Government Code §11549.50 et. seq.)

This bill:

1) Requires Caltrans to install conduits for fiber optic telecommunications cables in areas identified by the CPUC for the construction of state-owned open access middle mile broadband infrastructure.

2) Requires the CPUC to maintain and update a statewide, publicly accessible, and interactive map showing the accessibility of broadband service in the state, including, but not limited to, information identifying the percentage of each census block that has broadband service meeting federal and state standards. Under this bill, the interactive must include a function allowing individuals to receive notifications when the CPUC updates the map.

Background

Relationship between conduits and broadband infrastructure. Conduits are the pipes and ducts into which broadband cables are installed. While conduits alone do not provide broadband services, the installation of conduits can facilitate broadband deployment by preparing rights of way for the installation of broadband cables. The construction of buried conduits during roadway construction is part of

a policy called "Dig Once," which is intended to facilitate broadband deployment by reducing the cost and time needed for duplicative excavations needed for fiber or cable installation. Installation of fiber or cable along freeways can help expand access to middle-mile broadband infrastructure, which is the portion of broadband networks that carries large volumes of data at high speeds to last-mile portions of the network. Last-mile facilities are the lines that provide service to a consumer's home or business. Access to high-speed middle-mile infrastructure is generally necessary to obtain internet service at speeds that meet modern broadband needs.

AB 41 expands Caltrans's Dig Once duties to require construction of conduits in certain priority areas. Existing law requires Caltrans to notify entities that deploy broadband about opportunities to install broadband in transportation rights of way before beginning construction on a project. Existing law also requires Caltrans to adopt guidelines to facilitate the deployment of broadband infrastructure along state highways. Existing law allocates $3.25 billion for the construction of a state-owned open access middle mile broadband network. Under existing law, Caltrans is responsible for overseeing contracts to construct this infrastructure in state transportation rights of way. This bill expands Caltrans's broadband deployment duties by requiring Caltrans to construct conduits along state highways in the areas the CPUC identifies for the construction of state-owned open access middle mile infrastructure.

AB 41 requires the CPUC to update broadband maps. This bill requires the CPUC to maintain and update broadband maps to include information about the extent to which California census blocks have broadband service meeting state and federal standards. The CPUC already maintains an interactive broadband map, known as CalSpeed. The existing CalSpeed map includes a variety of information about broadband projects and service in California, including the extent to which certain anchor institutions have broadband service; however, the CPUC lacks sufficiently granular information to update the CalSpeed map with information about the extent to which census blocks are considered "served" under state and federal broadband standards. Updating broadband maps with census block broadband service data can help identify communities disproportionately lacking broadband service and better enable entities to target broadband investments to these communities. This bill authorizes the CPUC to collect the data needed to update and maintain the CalSpeed map with census block service information.

Related/Prior Legislation

SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) made various changes necessary to implement the Budget Act of 2021. The bill provided federal funding for the construction of state-owned middle mile broadband infrastructure and allocated $2 billion of federal funds to the California Advanced Services Fund for the purpose of funding projects that deploy last-mile broadband infrastructure.

AB 980 (Wood, 2017) would have defined priority areas for broadband deployment and required Caltrans to install broadband conduits for fiber broadband installation in those priority areas. The bill died in the Assembly.

AB 1549 (Wood, Chapter 505, Statutes of 2016) required Caltrans to take certain steps to notify broadband deployment entities about opportunities to install broadband conduit in state transportation rights-of-way. The bill also required Caltrans to adopt guidelines for installation of broadband conduits in these rights of way.

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

According to the Senate Appropriations Committee:

- The CPUC estimates ongoing costs of $360,000 for 2.0 PY of staff to map broadband deployment data by census block, and identify priority highway rights-of-way. CPUC also estimates additional costs of $125,000 in the first year and $67,000 in the second and third years for consultants to develop and maintain the mapping notification feature, as well as necessary equipment and licenses. (PUC Utilities Reimbursement Account)

- Unknown potential cost pressures for Caltrans to perform additional requirements as part of the construction of the open-access broadband middle mile projects funded through the 2021 Budget Act. (federal funds)

SUPPORT: (Verified 8/30/21)

California Forward Action Fund
California Telehealth Network
First 5 California
Greater Oxnard Organization of Democrats
Marin County Board of Supervisors

OCHIN
South Bay Cities Council of Governments
The Rural Caucus of the California Democratic Party
The Utility Reform Network

OPPOSITION: (Verified 8/26/21)

CTIA

ARGUMENTS IN SUPPORT: According to the author, "As we develop our state infrastructure we need to consider maximum broadband deployment when we already have open trenches or are laying fiber. There is a recognition that the solutions presented here will not apply to every single improvement of a state right of way. However, this bill intends to ensure that all possible connections and efficiencies are weighed seriously and in good faith. Californians are no longer asking 'if' they will be connected, but 'how'. This bill seizes upon planned infrastructure upgrade opportunities to prepare California for a future that is already here."

ARGUMENTS IN OPPOSITION: The opponent expresses concerns that this bill is duplicative of existing broadband mapping efforts and this bill's data collection and reporting requirements do not address data needs for effective broadband deployment. CTIA opposes this bill unless it is amended to better align data collection and reporting to federal standards and eliminate unnecessary data reporting. CTIA states, "CTIA recommends the CPUC collect data on the availability of broadband internet access service in California efficiently, without imposing duplicative reporting requirements, and in a format consistent with federal broadband data collection requirements. While we agree improved maps are needed to reach those last remaining unserved households, the FCC is in the process of finalizing rules to deploy accurate location-based and nationally consistent mapping, potentially as early as the end of this year. The CPUC should collect granular data on locations served in a manner consistent with federal broadband data collection and mapping processes. This data should be available to policymakers and the public to ensure public funds for broadband deployment are targeted for projects in areas that are unserved."

ASSEMBLY FLOOR: 70-1, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena

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

NOES: Nguyen

NO VOTE RECORDED: Bennett, Bigelow, Chen, Choi, Kiley, Seyarto, Smith, Voepel

Prepared by: Sarah Smith / E., U., & C. / (916) 651-4107
8/31/21 9:25:23

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

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

THIRD READING

Bill No: AB 43
Author: Friedman (D), Chiu (D), Gipson (D), Quirk (D) and Ting (D), et al.
Amended: 9/1/21 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 14-1, 7/13/21
AYES: Gonzalez, Bates, Allen, Becker, Cortese, Dodd, McGuire, Melendez, Min, Newman, Rubio, Skinner, Wieckowski, Wilk
NOES: Dahle
NO VOTE RECORDED: Archuleta, Umberg

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 65-3, 5/10/21 - See last page for vote

SUBJECT: Traffic safety

SOURCE: Author

DIGEST: This bill provides Caltrans and local authorities greater flexibility in setting and reducing speed limits.

Senate Floor Amendments of 9/1/21 delay implementation of portions of the bill until June 30, 2024 or until the Judicial Council has developed a tool to determine a defendants ability to pay, whichever is sooner. The amendments also require warning notices rather than citations for 30 days after certain speed limits are reduced.

ANALYSIS:

Existing law:

1) Prohibits driving at a speed greater than is reasonable or prudent having due regard for weather, visibility, traffic, and the surface and width of the highway,

and in no event at a speed which endangers the safety of persons or property. This is known as California's Basic Speed Law.

2) Establishes a maximum speed of 65 mph under most circumstances and allows for lower speed limits under numerous specified conditions.

3) Authorizes Caltrans and local authorities to establish a speed limit on most streets of between 25 mph and 60 mph in 5 mph increments on the basis of an engineering and traffic survey (ETS), as defined. The ETS establishes the 85th percentile speed, which is rounded to the nearest 5 mph.

4) Establishes speed limits of 15 mph when traversing railroad crossings, at specified intersections, and in alleys, and of 25 mph in any business or residence district, near schools and near senior centers. These speed limits do not need to be justified by an ETS.

5) Prohibits the use of speed traps, as defined, in arresting or prosecuting any violation of the Vehicle Code including speeding.

6) Requires every court to offer an ability-to-pay determination, which reduces the cost of infractions for those who can demonstrate an inability to pay. The Judicial Council is required to develop a tool for making this determination by June 30, 2024. (Chapter 79 of 2021: AB 143, Committee on Budget)

This bill:

1) Authorizes local authorities, when performing an ETS, to consider the safety of bicyclists and pedestrians, with increased consideration for vulnerable pedestrian groups.

2) Authorizes Caltrans and local authorities, on streets where a 65 mph limit is applicable, to lower the speed limit to as low as 15 mph pursuant to an ETS. Current law permits the speed limit to be as low as 25 mph.

3) Authorizes Caltrans or a local authority to round the 85th percentile speed either up or down to the nearest 5 mph. (e.g. if the 85th percentile speed is 43 mph the speed limit would be set at either 40 mph or 45 mph). Current law requires the 85th percentile speed to be rounded to the nearest 5 mph. (e.g. if the 8th percentile speed is 43 mph the speed limit could be set at 45 mph.)

4) Authorizes a local authority who, after completing an ETS, finds that the speed limit is more than reasonable or safe, to reduce the speed limit by 5 mph by ordinance if the highway is designated as a safety corridor, as defined by Caltrans, or the portion of highway is adjacent to any land or facility that generates high concentrations of bicyclists or pedestrians, as determined by Caltrans. A local authority may not lower speed limits pursuant to this section until June 30, 2024 or until the Judicial Council creates a tool for local jurisdictions to determine an individual's ability to pay, whichever is sooner. A local authority may only issue warning citations for violations exceeding the speed limit by 10 mph or less for the first 30 days that the lower speed limit is in effect.

5) Authorizes a local authority who, after completing an ETS, finds that the resulting speed limit is higher than is reasonable or safe, to retain the current speed limit or restore the immediately prior speed limit if a registered engineer determines that no additional general purpose lanes have been added to the roadway since completion of the ETS that established the prior speed limit. A local authority may only issue warning citations for violations exceeding the speed limit by 10 mph or less for the first 30 days that the lower speed limit is in effect.

6) Defines a business activity district as a central or neighborhood downtown, urban village or zoning designation that prioritizes commercial land uses at the downtown or neighborhood scale and meets three of following four tests:

   a) No less than 50% of the property fronting the highway is used either for retail or dining.
   b) There is street parking.
   c) Traffic control signals are no more than 600 feet apart.
   d) Marked crosswalks are not controlled by a traffic control device.

   A local authority may only issue warning citations for violations exceeding the speed limit by 10 mph or less for the first 30 days that the lower speed limit is in effect.

7) Authorizes a local authority by ordinance to declare a 25 mph or 20 mph speed limit in a business activity district when the highway has a maximum of four traffic lanes.

Background

1) *Zero Fatalities Task Force.* In 2018 AB 2363 (Friedman, Chapter 650, Statutes of 2018) required the Secretary of the State Transportation Agency to convene a task force to develop policies for reducing traffic fatalities to zero. The task force commissioned research on speed setting from the UC Institute of Transportation Studies (UC ITS) and issued a report on its findings based on that research in January 2020 entitled "CalSTA Report of Findings; AB 2363 Zero Traffic Fatalities Task Force" (Task Force Report).

2) *Setting Speed Limits.* The Task Force Report describes how speed limits are currently set, a practice known as the 85th percentile, which is based on an ETS:

> "Drivers play an important role in how posted speed limits are set. Many U.S. states and California rely on a long-standing and widespread methodology known as the 85th percentile speed to establish speed limits. As its name implies, the 85th percentile speed is the velocity at which 85% of vehicles drive at or below on any given road. This approach was developed in the U.S. in the mid-20th century and is still the dominant factor in how speed limits are set in the U.S today. The 85th percentile methodology assumes that most drivers will drive at a safe and reasonable speed based on the road conditions. It is also based on the idea that speed limits are safest when they conform to the natural speed driven by most drivers and that uniform vehicle speeds increase safety and reduce the risks for crashes."[1]

Over the last several years, the conventional wisdom supporting the 85th percentile methodology has been criticized. The UC ITS report finds that the 85th percentile speed was intended to only be a starting point for setting speed limits, with subsequent adjustments made to account for safety concerns. The Task Force Report criticizes the 85th percentile methodology as privileging driver behavior, not requiring consideration of other road users such as pedestrians and bicyclists, and assuming that drivers will choose reasonable speeds.

3) *How Safe Are We?* California has many traffic fatalities and injuries: nearly 3,600 people die each year in traffic crashes and more than 13,000 are severely injured.[2] However, the trend has been relatively steady over the near term --

[1] CalSTA Report of Findings, AB 2363 Zero Traffic Fatalities Task Force; January 2020.
[2] California Office of Traffic Safety, California Highway Safety Plan (2019), 5.

traffic fatalities decreased 5.1% from 2018 to 2019[3] -- and declining over the long term. Pedestrian fatalities have also been relatively steady; the CHP notes that statewide pedestrian fatalities increased only slightly, from 947 in 2016 to 1021 in 2019. Excess speed is only one of many factors that can cause these fatalities, including alcohol, drugs and distracted driving. CalSTA reports that about one-third of driving fatalities are due to speeding. Concerns about a recent significant increase in traffic fatalities are not born out by the data.

4) *What Determines How Fast We Actually Drive?* Driver speed is in part based on the driver perception of circumstances, such as width of the road, road geometry, surrounding environment, and smoothness of the road. As cars have become quieter, more powerful, and handle better, the perception of a safe speed has increased, leading to higher actual speeds. Some researchers contend that drivers tend to be poor judges of safe speeds.

Comments

1) *Purpose.* Speed limit reform is far overdue in California. Speed limits are based on the speed driver's feel comfortable driving at, not safety. The 85th percentile is outdated, and has led locals to increase speed limits at the same time traffic fatalities continue to increase. Implementation of AB 43 at the local level has the potential to save hundreds of lives. This bill is the culmination of the Zero Traffic Fatalities Task Force recommendations on speed setting, verified and contributed to by experts across the state.

2) *Lower Speed Limits = Lower Speeds?* The goal of this bill is to lower speeds. However, lowering speed limits does not by itself slow speeds much. The Federal Highway Administration notes that simply lowering speed limits has little impact on driver behavior.[4] While the UC Institute of Transportation Studies concludes that reducing speed limits almost universally reduce speeds, "the absolute magnitude of speed changes from speed limits alone is quite small."[5]

   Bill supporters note that 1/3 of traffic fatalities are speed related. They believe reducing speed limits will reduce speed, reducing fatalities and injuries.

---

[3] California Office of Traffic Safety, Quick Statistics website, June 29, 2021.
[4] FHWA; Effects of Raising and Lowering Speed Limits on Selected Roadway Sections (No. FHWA RD-97-084); p.24.
[5] UC Institute of Transportation Studies: Research Synthesis for AB 2363 Zero Traffic Fatalities Task Force; December 31, 2019; p21.

Lowering speed limits too much carries its own risks. The Task Force Report notes "artificially low speed limits can lead to poor compliance as well as large variations in speed within the traffic stream. Increased speed variance can also create more conflicts and passing maneuvers."

3) *Using All the Tools.* The most effective way to reduce speeds is through a combination of signage, street engineering and enforcement. As noted by the UC Institute of Transportation Studies, speed limits are a mechanism that can be used to control speed, but most studies suggest that effectively controlling speed relies on numerous other factors including enforcement, features of the road, land use, and traffic control devices.[6]

   Perhaps the most important factor in reducing speeds is the street engineering, which describes the physical character of the streets and the surrounding environment. The Task Force Report acknowledges this:

   > "Many studies find that engineering changes are the most effective interventions at reducing pedestrian injury and fatality rates."
   >
   > "Task Force members overwhelmingly agree that changing a road's infrastructure is the most important factor to reduce vehicle operating speeds."

   The Task Force Report identifies many potential street engineering changes, which they call engineering countermeasures, such as curb extensions, median islands, raised crosswalks, roundabouts, and speed bumps, which naturally result in lower speeds. Despite noting the effectiveness of engineering countermeasures, the Task Force Report recommendations state that these measures can be costly and time-consuming to implement, only recommending that they be reviewed and considered. Instead the Task Force Report supports automated speed enforcement (e.g. speed cameras), a more punitive and surveillance-heavy approach.

4) *What is Next?* This bill allows local governments to lower speed limits in an incremental way subject to a public process. However, significantly lowering actual driving speeds will also require stepped up enforcement and engineering changes to the roads. As noted above, engineering changes are the most important factor in reducing speeds. Stepping up enforcement, such as through

[6] ibid

video cameras, without engineering changes will result in many more citations issued, a concern raised by the opponents. This interaction should be a foremost consideration in any subsequent speed limit legislation.

5) *Delayed Enforcement.* Legislation enacted as part of the 2021-22 budget requires courts to offer an ability-to-pay determination, which significantly lowers or waives fines for those who can demonstrate an inability to pay. The Judicial Council is charged with developing an on-line tool by June 30, 2024 so that individuals can determine if they qualify. Implementation of parts of this bill is delayed until that tool is available or until June 30, 2024, whichever is sooner.

6) *Supporters Arguments:* The bill provides flexibility to lower speed limits, which will make streets safer for all road users, as 1/3 of traffic fatalities are speed related, and will help cities prevent and reverse speed creep. Speed limits should account for all road users, not just cars. Reducing speed even a little will reduce deaths and injuries substantially.

7) *Opponent Arguments:* Studies demonstrate that lowering speed limits by itself will not reduce speed. It will criminalize normal behavior; result in many more issued citations and will not make streets safer.

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

SUPPORT: (Verified: 8/23/21)

Active San Gabriel Valley
Activesgv
Alameda County Board of Supervisors
Alameda County Transportation Commission
Alameda-Contra Costa Transit District
Asian Pacific Islander Forward Movement
Association of Bay Area Governments
Authority
Bay Area Council
CalBike
California Bicycle Coalition
California City Transportation Initiative
California State Association of Counties
California WalksCentral City Association of Los Angeles
Circulate San Diego

City and County of San Francisco
City and County of San Francisco, Board of Supervisors
City of Alameda
City of Berkeley
City of Chula Vista, Mayor Casillas Salas
City of Downey
City of Glendale
City of Long Beach
City of Los Angeles
City of Novato
City of Oakland
City of Oakland Bicyclist and Pedestrian Advisory Commission
City of Redondo Beach
City of San Jose
City of San Mateo
City of Santa Barbara
City of Thousand Oaks
City/County Association of Governments of San Mateo County
County of Santa Clara
Day One
Families on Fremont
Fresno Metro Ministry
Glendale Environmental Coalition
Independent Hospitality Coalition
Institute for Transportation & Development Policy
League of California Cities
Los Angeles County Bicycle Coalition
Los Angeles County Metropolitan Transportation Authority
Los Angeles Neighborhood Land Trust
Los Angeles Police Department
Los Angeles Walks
Metropolitan Transportation Commission
Move LA
Nacto
Napa County Transportation and Planning Agency/Napa Valley Transportation
National Association of City Transportation Officials
National Safety Council
NRDC
Pasadena Complete Streets Coalition
Policylink

Potrero Boosters Neighborhood Association
Puente Latino Association
Sacramento Area Council of Governments
Safe Routes Partnership
San Diego Association of Governments
San Francisco Bay Area Families for Safe Streets
San Francisco Bicycle Coalition
San Francisco Board of Supervisors
San Francisco County Transportation Authority
San Francisco Municipal Transportation Agency
Santa Cruz County Regional Transportation Commission
Santa Monica Spoke
Save Meridian Avenue for Its Residents Together Families
Silicon Valley Leadership Group
South Bay Bicycle Coalition
Southern California Association of Governments
SpurStop4aidan
Street Racing Kills
Streets are For Everyone
Streets for All
Sustainable Claremont
The Happy City Coalition
The League of American Bicyclists
Transform
Vision Zero Network
Walk Oakland Bike Oakland
Walk San Francisco

OPPOSITION: (Verified: 8/23/21)

ACLU California Action
California Association of Highway Patrolmen
California Traffic Defense Bar Association, a California Not for Profit
Peace Officers Research Association of California
Safer Streets LA
Western Center on Law & Poverty

ASSEMBLY FLOOR: 65-3, 5/10/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper,

Cunningham, Daly, Davies, Flora, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Kiley, Mathis

NO VOTE RECORDED: Chen, Choi, Megan Dahle, Frazier, Eduardo Garcia, Gray, Patterson, Smith, Valladares, Voepel

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
9/2/21 16:43:34

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

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

THIRD READING

Bill No: AB 45
Author: Aguiar-Curry (D), et al.
Amended: 9/2/21 in Senate
Vote: 27 - Urgency

SENATE HEALTH COMMITTEE: 11-0, 6/23/21
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener

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: 64-9, 6/1/21 - See last page for vote

SUBJECT: Industrial hemp products

SOURCE: US Hemp Roundtable

DIGEST: This bill establishes a regulatory structure in the California Department of Public Health (CDPH) for food, beverage and cosmetic products containing industrial hemp, and limits these products to containing no more than 0.3% concentration of tetrahydrocannabinol.

Senate Floor Amendments of 9/2/21 revise the definition of THC to cover any cannabinoid that CDPH determines causes intoxication, revised the prohibition on inhalable products to permit the manufacture of these products for sale in other states, and to also permit the manufacture and sale of inhalable products in California upon the effective date of legislation establishing a tax on inhalable products, and deleted provisions creating a hemp research program.

ANALYSIS:

Existing law:

1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and cannabis products, and adult-use cannabis and cannabis products for adults 21 years of age and over. [BPC §26000, et seq.]

2) Defines "cannabis," for purposes of MAUCRSA, as all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, the seeds thereof, the resin, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. Excludes "industrial hemp," as defined in the California Uniform Controlled Substances Act (UCS Act), from the definition of cannabis for purposes of MAUCRSA. [BPC §26001 (f)]

3) Defines industrial hemp, under the UCS Act, as a crop that is limited to types of the plant Cannabis sativa L. having no more than 0.3% THC. Excludes industrial hemp from the UCS Act, and from MAUCRSA, and instead requires industrial hemp to be regulated by the California Department of Food and Agriculture (DFA), as specified. [HSC §11018.5]

4) Establishes a regulatory structure for the cultivation of industrial hemp, and an Industrial Hemp Advisory Board, under the DFA. Requires a grower of industrial hemp for commercial purposes to register with the county agricultural commissioner. [FAC §81000, et seq.]

This bill:

1) Revises the definition of "industrial hemp," for purposes of the USC Act and for purposes of this bill, to be consistent with the definition in federal law, which is an agricultural product that is limited to types of the plant Cannabis sativa L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, and salts, with a Delta-9 THC of no more than 0.3% on a dry weight basis.

2) Defines various other terms for purposes of this bill, including the following:
   a) "Industrial hemp product" means a finished product containing industrial hemp that is a cosmetic, food, dietary supplement, or herb; is for human or animal consumption; and, does not include THC isolate as an ingredient;
   b) "Raw extract" means extract not for consumer use containing a THC concentration limited to that determined by CDPH in regulation; and,

c) "THC or comparable cannabinoid" means tetrahydrocannabinolic acid; any tetrahydrocannabinol (THC), except that CDPH can exclude isomers of THC pursuant to the process in 3) below; and, any other cannabinoid, except cannabidiol, that CDPH determines causes intoxication.

3) Permits CDPH to exclude from, or add, one or more isomers to the definition of "THC or comparable cannabinoid" by considering scientific evidence concerning the pharmacological effects of the THC, and requires any determination to be confirmed under the Administrative Procedures Act within 18 months of the date of the initial determination.

4) Requires a hemp manufacturer, in addition to any licensing and registration requirements required to be a food processing facility, cosmetic manufacturer, or pet food manufacturer, to also obtain an industrial hemp enrollment and oversight authorization from CDPH, which must be renewed annually. Requires CDPH to assess a fee to cover costs of the regulatory program.

5) Permits CDPH to adopt emergency regulations to implement this bill, and to readopt any emergency regulation that is the same as, or substantially equivalent to, an emergency regulation previously adopted, limited to one readoption for each regulation.

6) Exempts initial regulations regarding industrial hemp from the Administrative Procedures Act, with the exception of a 30-day public comment period. However, any regulations to impose an age requirement on the sale of industrial hemp products, or to determine maximum serving sizes must still comply with the Administrative Procedures Act.

7) Prohibits a manufacturer, distributor, or seller of an industrial hemp product from including on the label of the product, or publish or disseminate in advertising or marketing, any health-related statement that is untrue in any particular manner as to the health effects of consuming products containing industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp.

8) Specifies that foods, beverages, dietary supplements, cosmetics, and pet food are not adulterated by the inclusion of industrial hemp as long as the cannabinoids meet the requirements of this bill, and prohibits restricting the sale of these products based on the inclusion of industrial hemp.

9) Prohibits an industrial hemp product from being distributed or sold in the state unless it has documentation that it was produced from industrial hemp grown regulated by the Department of Food and Agriculture, if sourced within

California, or licensed in accordance with the US Department of Agriculture requirements if sourced from outside the state.

10) Permits CDPH to adopt regulations imposing an age requirement for the sale of certain industrial hemp products upon a finding of a threat to public health.

11) Prohibits industrial hemp, unless explicitly approved by the federal FDA, from being included in medical devices or prescription drugs, any product containing nicotine or tobacco, or alcoholic beverages.

12) Permits CDPH to prohibit the inclusion of industrial hemp in other products when it poses a risk to human or animal health through regulation.

13) Prohibits the manufacture or sale of inhalable products, except for the sole purpose of sale in other states, until the effective date of future legislation passed by the Legislature that establishes a tax on inhalable products.

14) Establishes, upon the effective date of future legislation establishing a tax on inhalable products, the following requirements on inhalable products: prohibits inhalable products from being sold to consumers under 21 years of age, and prohibits inhalable products from containing any flavorings, vitamin E acetate, and certain other substances.

15) Permits CDPH, through regulation, to determine maximum serving sizes, active cannabinoid concentration per serving size and number of servings per container, and any other requirements for foods and beverages.

16) Requires a hemp manufacturer to meet all of the following testing requirements: requires industrial hemp to be tested in raw extract final form, to allow its use as an ingredient, prior to being incorporated into a product; requires testing to be completed by an independent testing laboratory, as defined; and, prohibits the hemp extract in its final form from exceeding THC concentration of an amount determined allowable by CDPH in regulation, or the mass of the industrial hemp extract used in the final form product from exceeding THC concentration of 0.3%.

17) Permits CDPH to regulate the cap on extract and to cap the amount of THC concentration at the product level based on the product form, volume, number of servings, ratio of cannabinoids to THC in the product, or other factors.

18) Prohibits a raw hemp product from being distributed or sold in this state without a certificate of analysis from an independent testing laboratory that confirms all of the following: the raw hemp product is the product of a batch of

industrial hemp that was tested by the independent testing laboratory; a tested representative sample of the batch of industrial hemp contained a total THC concentration that did not exceed 0.3% on a dry-weight basis; and, the tested sample of the batch did not contain unsafe contaminants.

19) Requires the testing requirements for contaminant levels to initially be the same as those for cannabis, as specified in existing law, but permits CDPH to adjust the specific contaminant levels for industrial hemp by regulation

20) Prohibits a hemp manufacturer from directly target advertising or marketing to children or to persons who are pregnant or breastfeeding, and limits advertising or marketing to only be displayed where at least 70% of the audience is reasonably expected to be 18 years of age or older.

21) Prohibits an industrial hemp product that is a dietary supplement, food, or beverage, or cosmetic from being distributed or sold in the state without packaging and labeling that includes a link to the certificate of analysis from the independent testing laboratory, the product expiration date, and a statement that the FDA has not evaluated this product for safety or efficacy.

22) Exempts communications between state agencies and local law enforcement officials regarding license, registration, cultivar, and enforcement information of manufacturers and retailers of industrial hemp products and raw extract from being subject to the California Public Records Act and to be considered "official information" pursuant to specified provisions of existing law.

23) Requires, by July 1, 2022, the Department of Cannabis Control to prepare a report to the Governor outlining the steps necessary to allow for the incorporation of hemp cannabinoids into the cannabis supply chain.

24) Requires all laws and regulations pertaining to industrial hemp products to remain in effect until the adoption of regulations pursuant to the federal law that authorizes industrial hemp products. Requires CDPH to adopt new regulations as necessary pursuant to protect consumers.

25) Contains an urgency clause making this bill effective upon enactment.

Comments

Author's statement. According to the author, this bill provides legal clarity and strictly regulates the manufacture, sale and use of hemp-derived cannabidiol (CBD) products in California. Notably, statute already permits and carefully regulates the manufacture and sale of cannabis-derived CBD products. However,

the laws regulating the manufacture and sale of hemp-derived CBD products in California are murky, at best. According to the World Health Organization (WHO) Expert Committee on Drug Dependence, "CBD is well tolerated, has a good safety profile, and any adverse side effects are rare and likely due to interactions with other medications a patient may be on." In addition, the WHO has published findings that hemp-derived CBD does not lead to abuse or dependence. By establishing robust regulatory oversight of California's hemp-derived CBD marketplace while simultaneously elevating consumer health and safety standards, including comprehensive, strictest-in-the-nation testing requirements that mirror those for cannabis, this bill ensures California plays a pivotal role in the responsible growth of the hemp industry.

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

According to the Senate Appropriations Committee, CDPH estimates costs of $3.3 million in the first year and $3 million ongoing to license, inspect, investigate, and enforce manufacturers of industrial hemp derived products. Actual costs would depend on the number of possible new hemp-derived cannabidiol food and beverage processors, warehouses, distributors, and cosmetic manufacturers that may seek licensure or registration under this bill.

SUPPORT: (Verified 8/27/21)

US Hemp Roundtable (source)
Alameda County Board of Supervisors
Arcadia Biosciences
California Cannabis Industry Association
California Grocers Association
California Hemp Council
Cannabis Beverage Association
Canopy Growth Corporation
Charlotte's Web
CMG/Caliva
Cronos Group
Council for Responsible Nutrition
CV Sciences
Daytrip Beverage Company
Eden Enterprises
Imperial County
NXT Water
Ojai Energetics

Vote Hemp
Vybes

OPPOSITION: (Verified 8/26/21)

Angeles Emeralds
Big Sur Farmers Association
California Hemp Association
Cannabis Distribution Association
Coachella Valley Cannabis Alliance Network
Getting it Right from the Start
Humboldt County Growers Alliance
Long Beach Collective Association
Mendocino Cannabis Alliance
Nevada County Cannabis Alliance
Origins Council
San Francisco Cannabis Retailers Alliance
Santa Ana Cannabis Association
Social Equity LA
Sonoma County Growers Alliance
South Bay Cities Council of Governments
Trinity County Agricultural Alliance
United Cannabis Business Association
Youth Forward

ARGUMENTS IN SUPPORT: US Hemp Roundtable, the bill's sponsor, states that from coast to coast, consumers have made hemp CBD a highly desirable wellness product. Nielsen projects that national hemp CBD sales will more than double by 2022 (from $1.9 billion to $5.8 billion). However, California consumers are prohibited from purchasing these hemp CBD ingestible products, depriving them of these wellness products and the state of much-needed tax revenue. US Hemp Roundtable states that this bill will establish the most expansive hemp CBD testing program in the country, the same testing regiment for cannabis, and that consumer would have access to the test results for every product they purchase. US Hemp Roundtable states that 28 states, including New York, Florida, Texas, Virginia, New Jersey, Kansas, Nevada, and Oklahoma, all have adopted laws that allow hemp CBD to be used in food, beverages and dietary supplements. California Hemp Council states in support that CBD has been shown to be effective at promoting overall health wellness. The California Hemp Council states that from a health and safety standpoint, it strongly believes that safe and accurately-labeled CBD products should be mandatory and available to consumers,

which is why they support the provisions of this bill. The Cronos Group states that this bill is the product of a multi-year effort and robust negotiations between the Legislature, the Governor's Office, CDPH, and a variety of stakeholders, and that this bill is a critical step for the growth of the hemp/CBD market in California.

ARGUMENTS IN OPPOSITION: Getting it Right from the Start (GRS), a project of the Public Health Institute, opposes this bill, stating that hemp derivatives pose a serious threat to consumer safety as it would lead to a blanket authorization of the adulteration of food, beverages, dietary supplements, cosmetic products, and pet food with hemp-derived ingredients. According to GRS, this bill opens the door for the addition of psychoactive cannabinoids into foods, stating that while Delta-9 THC is often viewed as the only potentially hazardous compound produced by the cannabis plant, industrial hemp contains more than 100 compounds chemically related to Delta-9 THC, and thousands of additional phytochemicals, Most of these have not been researched, and so their effects when concentrated and consumed is largely unknown. According to GRS, research has found that CBD, the cannabinoid most commonly associated with hemp, in addition to certain benefits, can also have significant adverse side effects, including affecting driving ability, and could possibly have drug interactions. GRS states that there is no reason to allow the addition of a wide range of hemp derived products of unknown safety to our food supply or dietary supplements while the FDA is currently evaluating their approach to this thorny regulatory challenge. Youth Forward also opposes this bill, making similar arguments to GRS.

A coalition of organizations, including Angeles Emeralds, Long Beach Collective Association, Coachella Valley Cannabis Alliance Network, Social Equity LA, San Francisco Cannabis Retailers Alliance, United Cannabis Business Association, and Santa Ana Cannabis Association, among others (coalition), jointly submitted an oppose unless amended letter. The coalition argues first that while recent amendments added Delta-8 and Delta-10 to the definition of THC, this bill should be amended further to anticipate the rise of other synthetic THC analogs, and that authority be given to regulators to determine and restrict other intoxicating cannabinoids. Secondly, the coalition requests that the bill be amended to place a limit on THC in terms of milligrams, rather than by a percentage of the form by the product's weight, and recommends permissible amounts not exceed 0.1mg of THC per final form manufactured hemp product. Third, the coalition notes that cannabinoids derived from hemp are the same as those derived from cannabis. The coalition requests this bill be amended to require testing to be in complete parity with cannabis product testing, including final form testing. Finally, the coalition also requests that cannabis operators be permitted to incorporate hemp CBD into

the supply chain, and to require hemp-derived products to label cannabinoid content in milligrams, directly on final form products, and not solely on a QR code.

ASSEMBLY FLOOR: 64-9, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Kiley, Mathis, Nguyen, Smith, Voepel

NO VOTE RECORDED: Chen, Gray, O'Donnell, Patterson, Petrie-Norris, Seyarto

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
9/4/21 7:15:09

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

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

THIRD READING

Bill No: AB 46
Author: Luz Rivas (D), et al.
Amended: 9/2/21 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 11-2, 6/22/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Bradford, Glazer, Hueso, Kamlager, Portantino, Rubio
NOES: Jones, Melendez
NO VOTE RECORDED: Borgeas, Wilk

SENATE HUMAN SERVICES COMMITTEE: 4-1, 7/6/21
AYES: Hurtado, Cortese, Kamlager, Pan
NOES: Jones

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 73-0, 6/1/21 - See last page for vote

SUBJECT: California Youth Empowerment Act

SOURCE: Alliance for Boys and Men of Color
California Association of Student Councils
California Coalition for Youth
California Youth Connection
Mi Familia Vota
San Francisco Youth Commission

DIGEST: This bill creates, until January 1, 2027 and to the extent funds are appropriated, the California Youth Empowerment Act (Act), to address, among other issues, the growing need to engage youth directly with policymakers. In

addition, this bill establishes the California Youth Empowerment Commission (Commission) in state government for the main purpose of providing meaningful opportunities for civic engagement to improve the quality of life for California's disconnected and disadvantaged youth.

Senate Floor Amendments of 9/2/21 reduce the size of the Commission from 25 to 13 Commissioners and allow a parent or guardian to be entitled to receive their actual necessary travel expenses while accompanying the minor on official business of the Commission.

ANALYSIS:

Existing law:

1) Establishes various social services and programs to address the needs of young people in this state including the California Youth Leadership Project to support and promote civic engagement through scholarships to disconnected and disadvantaged youth.

2) Requires, under the Bagley-Keene Open Meetings Act, that all meetings of a state board, or commission, committee, or similar multimember state body be open and all persons shall be permitted to attend any meetings of a state body except as specified. Existing law authorizes a state board, or commission, committee, or similar multimember state body to conduct meetings via teleconference provided certain criteria are met.

3) Establishes various state boards, commissions, advisory committees, and other authorized state bodies.

This bill:

1) Creates, until January 1, 2027 and to the extent funds are appropriated, the Commission and requires the Commission to consist of 13 voting commissioners, between the ages of 14 to 25 years of age, from specified regions.

2) Provides the Commission's main purpose is to provide meaningful opportunities for actual civic engagement to improve the quality of life for California's disconnected and disadvantaged youth. Furthermore, youths involved with the Commission will make meaningful recommendations regarding legislation and policies that impact their own lives and the lives of millions of other youths in California whose voices often go unheard.

3) Requires the Commission to do all of the following:

   a) Examine and discuss policy and fiscal issues affecting the interests, needs, and conditions of the youth of California.

   b) Formally advise and make recommendations to the Legislature, Superintendent of Public Instruction, and Governor on specific legislative issues affecting youth.

   c) Consult with any existing local-level youth advisory commissions and community-based, grassroots youth-led organizations for input and potential solutions on issues related to youth.

   d) Publish an internet website to report details relevant to the Commission for the public to view, as specified.

   e) Publish, on or before January 1, 2024, and annually thereafter, an annual report detailing the activities, issues, demographics, budget, and outcomes of the commission, as specified.

4) Provides that the Commission shall be an advisory commission only. There shall be no right or obligation on the part of the state, or parties meeting and conferring, to implement the findings of the Commission without further legislation.

5) Requires the Commission to conduct full commission meetings at least every other month, with the first meeting in August 2022, or not later than eight months after funding is made available.

6) Requires that meetings of the full commission be open and public and all persons shall be permitted to attend any meetings.

7) Requires commissioners to serve as two-year terms and be a resident of California.

8) Provides that attending a meeting of the Commission shall be a lawful excuse for a student to be absent from school if approved by the principal or a designated representative, as specified.

9) Requires the Governor to appoint an executive director and requires the director, to among other things, be responsible for the hiring of commission staff.

10) Requires the executive director of the Commission, within six months of the Commission's establishment, and not later than March 1 of each subsequent year, to do the following:

    a) Release to the public on its internet website the procedures for the general application process to assist public members in the appointment process and facilitate communications between public members and the appointing powers.

    b) Have created and made the application publicly available on its internet website.

11) Requires the executive director to notify specified institutions of higher learning that the application for an appointment is open, as specified.

12) Provides that each public member of the Commission shall receive $100 per diem while on official business of the Commission. Each member of the Commission shall also be entitled to receive their actual necessary traveling expenses while on official business of the Commission. For commissioners between 14 and 18 years of age, a parent or guardian shall be entitled to receive their actual necessary traveling expenses while accompanying the minor on official business of the Commission.

13) Authorizes the Commission to accept gifts and grants from any source to help perform its functions under this bill.

14) Creates the Youth Empowerment Commission Fund, which shall be administered by the executive director. Moneys deposited in the account shall be expended, upon appropriation by the Legislature.

Comments

Purpose of the bill. According to the author's office, "youth deserve to have their voices heard. [This bill] will establish a 25-member youth commission that will serve as a statewide advisory body to the state government. At least half of the commissioners must have experienced youth homelessness, foster care, juvenile incarceration, or have special needs to ensure representation from traditionally underserved groups. The Commission's duties will include examining and discussing policy, holding meetings and roundtable discussions with youth advocates and the public, and investing in youth by providing grants, with strict oversight mechanisms, to programs that seek to address youth concerns. Our democracy is better served when everyone, especially youth, is given an

opportunity to contribute their own unique and invaluable perspectives in policy decisions that have far-reaching ramifications for the future of our great state."

California Youth Empowerment Commission. This bill establishes the Commission, which would formally advise and make recommendations to the Legislature, Superintendent of Public Instruction, and Governor on issues and matters that impact the quality of life for California's disconnected and disadvantaged youth. The Commission would conduct full commission meetings at least every other month, starting in August 2021, and it would publish an annual report to the Legislature, Superintendent of Public Instruction, Secretary of California Health and Human Services, and Governor detailing the activities, issues, demographics, budget, and outcomes of the commission.

Additionally, the Commission would lead community engagement work through the commission's public hearings, outreach efforts, public awareness campaigns, and grant programs. While there is no current California statewide youth commission, California has experience with this model like the California Commission on the Status of Women and Girls or the California Commission on Asian & Pacific Islander American Affairs, both which have been charged with engaging the public to define challenges faced by California's most vulnerable populations and policy solutions to addresses these challenges to the California State Legislature, the Governor, and the greater public. Models for youth commissions can be found in other states as well as on the local level.

The author argues "that although there are many boards and commissions that advise the state government, there is no commission comprised solely of youth, or that focuses on issues of importance to young Californians. This means that youth do not have a seat at the table when the State makes critical policy decisions that impacts their future."

Youth Civic Engagement. Data from the Center for Information & Research on Civic Learning and Engagement (CIRCLE) at Tufts University found about a 10% increase in voter participation for youth ages 18 to 29 in the 2020 United States presidential and general election compared to the 2016 presidential and general election. Casting a ballot, however, only represents one form of civic engagement. Civic engagement includes political activism, environmentalism, and community and national service. The CIRCLE data also found an increase in other forms of civic engagement including volunteering for political campaigns and trying to convince other young people to vote. Research has consistently shown that participating in communities and being a part of groups working together on an

issue has numerous benefits for young people themselves. Participation in civic engagement activities can help youth become better informed about current events.

Related/Prior Legislation

SB 421 (Pan, 2021) would have established, until January 1, 2025, the Children's Cabinet of California to serve as an advisory body responsible for improving the collaboration among agencies that provide services to the children and youth of the state. (Held in the Senate Appropriations Committee Suspense File)

AB 1858 (Luz Rivas, 2020), similar to this bill, would have created the Act to address, among other issues, the growing need to engage youth directly with policymakers. In addition, the bill would have established the Commission in state government for the main purpose of providing meaningful opportunities for civic engagement to improve the quality of life for California's disconnected and disadvantaged youth. (Never heard in the Assembly Accountability and Administrative Review Committee)

AB 2252 (DeSaulnier, 2008) would have established the California Youth Council to better ensure that the developmental needs of youth in California are met. (Vetoed by Governor)

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

According to the Senate Appropriations Committee, unknown, ongoing annual costs in the hundreds of thousands to low millions of dollars to establish and continue the operation of the Commission. These costs include support staff for the Commission as well as operating expenses and equipment, and per diem and travel reimbursement costs for commissioners.

SUPPORT: (Verified 8/26/21)

Alliance for Boys and Men of Color (co-source)
California Association of Student Councils (co-source)
California Coalition for Youth (co-source)
California Youth Connection (co-source)
Mi Familia Vota (co-source)
San Francisco Youth Commission (co-source)
AFSCME, AFL-CIO
All Saints Church Foster Care Project
Alliance for Children's Rights
American Academy of Pediatrics, California
American Federation of State, County and Municipal Employees, AFL-CIO

Aspiranet
California Alliance of Child and Family Services
California Immigrant Policy Center
California League of Conservation Voters
Californians for Justice
Children Now
Children's Network of Solano County
Community Health Councils
Doing Good Works
Foster Care Counts
Home Start, INC
Inland Empire United, a Project of Tides Advocacy
John Burton Advocates for Youth
Larkin Street Youth Services
League of Women Voters of California
Lyric
Mental Health Association of San Francisco
Mid-City Community Advocacy Network
MyPath
National Association of Social Workers, California Chapter
National Institute for Criminal Justice Reform
NextGen California
Prevention Institute
Public Counsel
San Francisco Youth Commission
Simi Valley Democratic Club
Southeast Asia Resource Action Center
The Children's Partnership
The Los Angeles Trust for Children's Health
The Unity Council
Vacaville Police Activities League
Villines Group, LLC
Voices Youth Centers
Westcoast Children's Clinic
Youth Forward

OPPOSITION: (Verified 8/26/21)

None received

ARGUMENTS IN SUPPORT: According to supporters of this bill, "the Commission's duties will include examining and discussing policy, holding meetings and roundtables with your advocates and the public and investing in youth by providing grants to programs that week to address youth concerns. Young people, from civil rights to the largest protest in American history this year, have led the way. AB 46 is an opportunity to channel that energy from the streets to the California legislature and sure young people who represent the most marginalized communities have a say in the policies and systems impacting their families and communities."

ASSEMBLY FLOOR: 73-0, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, 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, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Megan Dahle, Gallagher, Patterson, Seyarto, Smith

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
9/4/21 7:15:07

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

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

THIRD READING

Bill No: AB 57
Author: Gabriel (D) and Chiu (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/29/21
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

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: Law enforcement: hate crimes

SOURCE: Author

DIGEST: This bill (1) requires that basic courses in peace officer curriculum include instruction on the topic of hate crimes; (2) updates some definitions in peace officer training coursework; and (3) requires that officers complete refresher training in the area of hate crimes every six years.

ANALYSIS:

Existing law:

1) Requires that the Commission on Peace Officers Standards and Training (POST) develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers, addressing hate crimes. (Pen. Code, § 13519.6, subd. (a).)

2) States that the hate crimes course of instruction shall make the maximum use of audio and video communication and other simulation methods and shall include instruction in each of the following:

   - Indicators of hate crime;
   - The impact of these crimes on the victim, the victim's family and the community, and the assistance and compensation available to the victims;
   - Knowledge of laws dealing with hate crimes and the legal rights of, and the remedies available to, victims of hate crimes;
   - Law enforcement procedures, reporting, and documentation of hate crimes;
   - Techniques and methods to handle incidents of hate crimes in a non-combative manner;
   - Multimission criminal extremism, which means the nexus of certain hate crimes, antigovernment extremist crimes, anti-reproductive-rights crimes, and crimes in whole or in part because of the victim's actual or perceived homelessness;
   - The special problems inherent in some categories of hate crimes, including gender-bias crimes, disability-bias crimes, including those committed against homeless persons with disabilities, anti-immigrant crimes, and anti-Arab, and anti-Islamic crimes, and techniques and methods to handle these special problems; and,
   - Preparation for, and response to future anti-Arab/middle Eastern and anti-Islamic hate crime waves that the Attorney General determines is likely. (Pen. Code, § 13519.6, subd, (b).)

3) Provides that the guidelines developed by POST shall incorporate certain procedures and techniques, as specified, and shall include a framework and possible content of a general order or other formal policy on hate crimes that all state law enforcement agencies shall adopt and the commission shall encourage all local law enforcement agencies to adopt. The elements of the framework shall include, but not be limited to, the following:

   - A message from the law enforcement agency's chief executive officer to the agency's officers and staff concerning the importance of hate crime laws and the agency's commitment to enforcement;

- The definition of "hate crime", as specified;
- References to hate crime statutes as specified; and,

A title-by-title specific protocol that agency personnel are required to follow, including, but not limited to, the following:

- Preventing and preparing for likely hate crimes by, among other things, establishing contact with persons and communities who are likely targets, and forming and cooperating with community hate crime prevention and response networks.
- Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority.
- Accessing assistance, by, among other things, activating the Department of Justice hate crime rapid response protocol when necessary.
- Providing victim assistance and follow-up, including community follow-up.
- Reporting. (Pen. Code § 13519.6, subd. (c).)

4) Defines "hate crime" as a criminal act committed, in part or in whole, because of actual or perceived characteristics of the victim, including: disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of the previously listed actual or perceived characteristics. (Pen. Code, § 422.55, subd. (a).)

5) Requires all state and local agencies to use the above definition when using the term "hate crime." (Pen. Code, § 422.9.)

6) Specifies that "hate crime" includes a violation of statute prohibiting interference with a person's exercise of civil rights because of actual or perceived characteristics, as listed above. (Pen. Code, § 422.55, subd. (b).)

This bill:

1) Specifies that the definition of "bias motivation" in the hate crimes policy requirements for local law enforcement agencies shall include the "discriminatory selection of victims."

2) Specifies, additionally, that in local law enforcement agency hate crimes policies will make clear that in recognizing suspected religion-bias hate crimes,

the policy shall instruct officers to consider whether there were targeted attacks on, or biased references to, symbols of importance to a particular religion or articles considered of spiritual significance to a particular religion.

3) Specifies that POST shall consult with subject-matter experts, including law enforcement agencies, civil rights groups, academic experts, and the Department of Justice in developing hate crimes training for law enforcement officers.

4) Requires that POST shall incorporate the video course developed by the commission entitled "Hate Crimes: Identification and Investigation," or any successor video into the basic course curriculum and make the video course available to stream via the learning portal.

5) Require that each peace officers shall be required to complete the "Hate Crimes: Identification and Investigation" course, or any other POST-certified hate crimes course via the learning portal or in-person instruction.

6) Specifies that POST shall develop and periodically update an interactive course of instruction and training for in-service peace officers on the topic of hate crimes and make the course available via the learning portal. The course shall cover the fundamentals of hate crime law and preliminary investigation of hate crime incident, and shall include updates on recent changes in the law, hate crime trends, and the best enforcement practices.

7) Specifies that POST shall require the hate crimes course be taken by in-service peace officers every six years.

Comments

According to the Department of Justice's (DOJ) 2016 report, Hate Crimes in California, the total number of hate crime events (an occurrence when a hate crime is involved) decreased 34.7 percent from 2007 to 2016. Filed hate crime complaints decreased 30.5 percent from 2006 to 2015. That being said, hate crime events in California have been on the rise; there was a 10.4 percent rise from 2014 to 2015, and then another 11.2 percent rise from 2015 to 2016. The total number of hate crime events, offenses, victims, and suspects had all increased in 2016.

According to its 2015 report, "The DOJ requested that each law enforcement agency establish procedures incorporating a two-tier review (decision-making) process. The first level is done by the initial officer who responds to the suspected hate crime incident. At the second level, each report is reviewed by at least one other officer to confirm that the event was, in fact, a hate crime." Even with the

two-tiered system in place, the DOJ still lists the policies of law enforcement agencies as one of four factors possibly influencing the volume of hate crimes reported.

The Los Angeles Police Department (LAPD) website posted its manual (Volume 1, Section 522), which states its general policy, but does not discuss specific procedures. Among other things, it states, "When any act motivated by hatred or prejudice occurs, the Department will ensure that it is dealt with on a priority basis and use every necessary legal resource to rapidly and decisively identify the suspects and bring them to justice."

According to data from the National Crime Victim Survey by the U.S. Justice Department, hate crimes are significantly underreported. This survey, in comparison to numbers reported to the FBI, suggests that hate crimes likely occur 24-28 times more than they are reported. This underreporting is due in part to a lack of formal training and reporting requirements for local police departments as well as the victim's fear of insensitive treatment by law enforcement.

According to the author, AB 57 addresses the recent wave of hate-motivated violence in the U.S., which has prompted fear and concern in many vulnerable communities, including the Asian Pacific Islander (API) and Jewish communities. Notably, hate crimes targeting Asian Americans in America's largest cities have increased 164% in the past year according to a new study. The Anti-Defamation League has similarly reported a surge of anti-Jewish incidents in recent weeks, which has included violent attacks in Los Angeles and other major urban areas.

According to the Los Angeles Police Department, hate crimes in the City of Los Angeles increased 40% from 2016 to 2019. Even more concerning is that data collected by the U.S. Department of Justice suggests that hate crimes occur 24 to 28 times more frequently than they are reported.

In 2018, the State Auditor released a report on hate crimes in California. Notably, the report found that law enforcement agencies failed to identify and report a significant percentage of hate crimes to the DOJ, and recommended that the DOJ provide better guidance to assist local law enforcement agencies with the identification and investigation of hate crimes and outreach to vulnerable communities. Ultimately, the audit concluded that "law enforcement agencies' inadequate policies and the DOJ's lack of oversight have resulted in the underreporting of hate crimes in the DOJ's Hate Crime Database."

According to the State Auditor, these findings show a need for greater guidance and oversight by the DOJ, including with regards to hate crimes reporting and data

collection, hate crime policies, outreach to historically vulnerable communities, coordination between law enforcement agencies, and education for the general public.

This bill builds on specific recommendations from the audit ensures law enforcement agencies adequately identify, report, or respond to hate crimes.

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

According to the Senate Appropriations Committee:

POST: The commission estimates one-time costs ranging from minimal to as high as $4.4 million to $5.4 million for each peace officer to complete a hate crimes course in one year. Actual costs would depend on which course is chosen, as POST currently has several certified hate crimes courses that range from 4 to 8 hours. Some of these courses are available at no cost and funded through the commission's Distance Learning Grant Program. The highest cost reflected would be if every officer takes the two-hour POST-facilitated course. (General Fund*)

Costs related to the requirement that in-service peace officers complete the course every six years also is variable and dependent on which course is chosen and if officers take the course during overtime or regular work hours. At the high end, if in-service peace officers take the two-hour POST-facilitated course all during the same year in overtime hours, costs to POST would be $13.5 million. If it was charged at regular work hour rates, costs to POST would be $9 million. If participation in the course is spread relatively evenly every year across the six-year period, annual costs to POST would be $1.5 to $2.25 million in overtime hours. (General Fund*)

Additionally, POST one-time costs of between $250,000 and $300,000 to develop an interactive course and costs of $250,000 for each periodic update to the course. (General Fund*)

California Highway Patrol: The department estimates costs of $2 million if all of its officers are required to complete the two-hour POST-facilitated course and unknown costs for its in-service officers to attend a renewal course every six years, as these costs would depend on which course is chosen and the duration of that course. The department does not seek reimbursement from POST for its officers for these types of training. (Special fund**)

Department of Parks and Recreation: The department estimates training costs of roughly $110,000 for its 600 peace officers. Additionally, it may incur approximately $100,000 in one-time costs if new or revised POST guidelines

resulting from this bill require the department to update its own policies. (General Fund)

SUPPORT: (Verified 8/26/21)

Alameda County District Attorney's Office
American Jewish Committee
American Jewish Committee - Los Angeles
American Jewish Committee - San Francisco
Anti-Defamation League
Armenian National Committee of America - Western Region
Asian Law Alliance
Asian Pacific American Advocates
Association of Regional Center Agencies
California Federation of Teachers, AFL-CIO
California League of United Latin American Citizens
California NAACP
California Religious Action Center of Reform Judaism
Center for the Study of Hate & Extremism - California State University, San Bernardino
Equality California
Hadassah, the Women's Zionist of America, INC.
Holocaust Museum LA
Israeli-American Civic Action Network
Jewish Center for Justice
Jewish Community Federation and Endowment Fund
Jewish Community Relations Council of San Francisco, the Peninsula, Marin, Sonoma, Alameda and Contra Costa Counties
Jewish Family & Community Services East Bay
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Jewish Family Services of Silicon Valley
Jewish Federation of Greater Los Angeles
Jewish Federation of Greater Santa Barbara
Jewish Public Affairs Committee
Jewish Silicon Valley
Mayor Eric Garcetti, City of Los Angeles
National Council of Jewish Women California
Progressive Zionists of California
Rabbis and Cantor of Congregation Or Ami
Sacramento Jewish Community Relations Council

San Jose/Silicon Valley NAACP
Simon Wiesenthal Center, INC.

OPPOSITION: (Verified 8/26/21)

None received

ARGUMENTS IN SUPPORT: According to the Anti-Defamation League:

> In 2018 the State Auditor issued a report entitled *Hate Crimes in California: Law Enforcement Has Not Adequately Identified, Reported, or Responded to Hate Crimes*. The audit revealed that LEAs failed to identify and report a significant percentage of hate crimes to DOJ. The Auditor further found that several of the audited LEAs did not provide refresher hate crime trainings containing critical instructions for identifying hate crimes, along with information regarding any relevant updates in the law. Consequently, the Audit recommended that DOJ provide better oversight guidance to assist LEAs with the identification and investigation of hate crimes and outreach to vulnerable communities. In addition, it recommended that LEAs provide periodic hate crime trainings for their officers.
>
> AB 57 strengthens LEAs' ability to effectively identify and investigate hate crimes by codifying these recommendations. It requires the Commission on Peace Officer Standards and Training to develop, periodically update, and make available on its learning portal an interactive refresher course on hate crimes which in-service peace officers would take every three years. In addition, the bill requires DOJ to implement the Audit's recommendations, including that DOJ review the accuracy of LEAs hate crime data and policies every three years. Importantly, AB 57 also requires DOJ to create and distribute to LEAs outreach materials to better engage with their communities on this subject.
>
> California has a comprehensive set of hate crime laws that is a model for other states. However, laws are only effective and impactful when they are implemented fully. Passage of AB 57 is therefore essential to strengthening law enforcement's ability to respond to hate crime in their communities.

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: Gabe Caswell / PUB. S. /
8/31/21 9:23:34

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

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

THIRD READING

Bill No: AB 61
Author: Gabriel (D) and Gipson (D), et al.
Amended: 8/26/21 in Senate
Vote: 27 - Urgency

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 HEALTH COMMITTEE: 9-0, 7/14/21
AYES: Pan, Melendez, Eggman, Gonzalez, Hurtado, Leyva, Limón, Rubio, Wiener
NO VOTE RECORDED: Grove, Roth

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: Business pandemic relief

SOURCE: California Restaurant Association

DIGEST: This bill authorizes the Department of Alcohol Beverage Control (ABC), for 365 days from the date the Covid-19 state of emergency is lifted, to allow licensees to continue to exercise license privileges in an expanded licensed area authorized pursuant to a Covid-19 temporary catering permit, as provided.

ANALYSIS:

Existing law:

1) Establishes the Department of ABC and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature.

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

3) Establishes the California Retail Food Code (CRFC) to provide for the regulation of retail food facilities. Establishes health and sanitation standards at the state level through the CRFC, while enforcement is charged to local agencies, carried out by the 58 county environmental health departments, and four city environmental health departments (Berkeley, Long Beach, Pasadena, and Vernon).

4) Defines a "food facility" to mean an operation that stores, prepares, packages, serves, vends, or provides food for human consumption at the retail level, as specified. Includes in the definition of food facility private and public school cafeterias, commissaries, mobile food facilities, temporary food facilities, vending machines, catering operation, fishermen's market, and host facility.

5) Defines a "satellite food service" to mean a remotely located food service operation that is conducted on the same property as, in reasonable proximity to, and in conjunction with and by, a fully enclosed permanent food facility. Satellite food service does not include remote food service operations located within a fully enclosed permanent food facility.

6) Authorizes, under the Planning and Zoning Law, the legislative body of any city or county to adopt ordinances that regulate zoning within its jurisdiction, as specified. Under that law, variances and conditional use permits may be granted if provided for by the zoning ordinance.

This bill:

1) Authorizes, the Department of ABC, for a period of 365 days from the date when the Covid-19 state of emergency order is lifted, to permit licensees to continue to exercise license privileges in an expanded licensed area authorized pursuant to a Covid-19 temporary catering, as defined.

2) Authorizes the Department of ABC to extend the period of time during which the Covid-19 Temporary Catering Authorization is valid beyond 365 days if the

licensee has filed a pending application for the permanent expansion of their premises before the 365-day time period expires.

3) Provides that the Covid-19 temporary catering permits approved by the Department of ABC shall be subject to terms and conditions established by the department and as stated in the Fourth Notice of Regulatory relief and the related application form, including, but not limited to, that the authorization may be canceled by the Department of ABC, as specified.

4) Authorizes the Department of ABC, if the department determines that any licensee is found to be abusing the relief, or if the licensee's actions jeopardize public health, safety, or welfare, to rescind the relief as to that licensee at any time.

5) Authorizes, for a period of one year after the end of the state of emergency related to the Covid-19 pandemic, a permitted food facility within any local jurisdiction that is subject to retail food operation restrictions related to a Covid-19 public health response to prepare and serve food as a temporary satellite food service without obtaining a separate satellite food service permit, as specified.

6) Provides, that beginning on January 1, 2022 and ending on January 1, 2024, to the extent that an outdoor expansion of a business to mitigate COVID-19 pandemic restrictions on indoor dining interferes with required parking for existing uses, a local jurisdiction that has not adopted an ordinance that provides relief from parking restrictions for expanded outdoor dining areas shall reduce the number of required parking spaces for existing uses by the number of spaces that the local jurisdiction determines are needed to accommodate an expanded outdoor dining area.

7) Includes an urgency statute.

Background

Purpose of this bill. According to the author's office, "as small restaurants across California struggle to survive, state action is needed to help facilitate more outdoor dining, and expanded take-out and delivery options, in a manner consistent with public health guidance. This bill would empower local jurisdictions and the [Department of] ABC to provide much-needed regulatory flexibility to support struggling restaurants across the Golden State. Neighborhood restaurants are the

backbone of communities across California, but too many are barely hanging on by a thread."

The author's office further argues that, "outdoor dining offers a lifeline that can help keep these establishments afloat, but we must do more to assist them during these challenging times. Despite recent progress with vaccines, outdoor dining is likely to be critical for many restaurants for the foreseeable future. AB 61 ensures that restaurants are fully supported as they continue to innovate their business practices and safely operate."

Fourth Notice of Regulatory Relief. On March 15, 2020, the Department of ABC issued its Fourth Notice of Regulatory Relief, which was intended to assist qualified hospitality businesses with reopening in a manner that is consistent with local and state health and safety directives. The notice created the Covid-19 temporary catering permit, which authorizes the on-site consumption of those alcoholic beverages for which the licensee has on-sale privileges; on property that is adjacent to the licensed premises and that is under the control of the licensee. On June 3, 2021, the Department of ABC issue its Eight Notice of Regulatory relief, which extended a number of the previous reliefs until December 31, 2021. Included in that was extension of the Covid-19 temporary catering permit.

A qualified business is required to apply to the Department of ABC and include a diagram which clearly identifies where the requested area is in relation to the existing licensed premise. Prior to submitting an application, the licensee is responsible for, among other things, ensuring they have the legal authority to use the area requested, ensuring that the temporary expansion request has the approval of local agencies, and ensuring the temporary expansion request is being made in accordance with applicable city, county, and state guidelines regarding social distancing and the legality of the business being open for in-person service.

If approved, the licensee is authorized to exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises. Violations of these provisions, as well as the terms and conditions of the Covid-19 Temporary Catering Authorization, may be grounds for suspension or revocation of the licensee's license, as though the violation occurred on the licensed premises.

If the temporarily authorized area is being utilized by one or more other licensees, all licensees sharing the area are jointly responsible for compliance with all applicable laws and rules pertaining to their respective licenses and authorizations and for any violations that may occur within the shared common temporarily

authorized area. If at any point a licensee wants to terminate its liability for a shared area, it must cancel its Covid-19 Temporary Catering Authorization.

The Covid-19 Temporary Catering Authorization may be further canceled by the Department of ABC for disturbance of the quiet enjoyment of nearby residents and upon objection by local law enforcement. In addition, since none of the relief measures are specifically authorized by law, the Covid-19 Temporary Catering Authorization will likely end as soon as the Covid-19 emergency order is lifted. While current law already includes a process by which licenses could permanently expand their licensed premises and thus continue to use the space, this process can be time consuming since it includes input from various stakeholders including local governments, law enforcement, and members of the public.

This bill provides the Department of ABC with the authority necessary to continue to allow licensees to continue to operate under the Covid-19 Temporary Catering Authorization permit for a period of 365 days after the emergency order is lifted. Alcohol licensees would still need to follow all of the rules set forth under the fourth regulatory relief and would continue to need local approval.

Satellite food service. Satellite food service is a remotely located food service operation that is conducted on the same property as, in reasonable proximity to, and in conjunction with and by, a fully enclosed permanent food facility. Examples of satellite operations are the food service in booths, on the street or in other locations on the same property or fairly close to where the food is prepared at a fully licensed facility like a restaurant or a catering operation.

The CRFC requires a permanent food facility to obtain a permit to operate a satellite food service or operation. As part of this process, a permanent food facility is required to submit to the local enforcement agency a written standard operating procedures that include specified information including all food products that will be handled and dispensed; process or methods or food preparation and handling; how food would be transported to and from the permanent food facility and satellite food service. The CRFC also requires the satellite food service areas to have overhead protection that extends over all food handling areas.

This bill permits restaurants and other permanent food facilities to operate a satellite food service without obtaining a satellite food service permit. These provisions would sunset one year after the COVID-19 public health emergency declaration.

Related/Prior Legislation

SB 314 (Wiener, 2021) authorizes, among other things, the Department of ABC to, for 365 days from the date the Covid-19 state of emergency is lifted, allow licensees to continue to exercise license privileges in an expanded licensed area authorized pursuant to a Covid-19 temporary catering permit, as provided. In addition, the bill allows a licensed manufacturer to share a common licensed area with multiple licensed retailers, as specified. (Pending on the Assembly Floor)

SB 389 (Dodd, 2021) authorizes the holder of a retail on-sale license to sell alcoholic beverages for off-sale consumption for which their license permits on-sale consumption, as specified. (Pending on the Assembly Floor)

SB 793 (Wiener, 2021) authorizes the Department of ABC to issue a music venue license that would allow the licensee to sell beer, wine, and distilled spirits for consumption on the premises in a music entertainment facility, as defined. (Pending on the Senate Floor)

AB 609 (Santiago, Chapter 205, Statutes of 2018) extended the sunset date for five years, from 2018 to 2023, for a specific provision of the ABC Act, which permits specified licensees (distilled spirits manufacturers and winegrowers) or an authorized agent, to provide, free of charge, entertainment, food, and distilled spirits, wine, or nonalcoholic beverages to consumers at an invitation-only event, held on specified premises, in connection with the sale or distribution of wine or distilled spirits, as provided.

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

According to the Senate Appropriations Committee, unknown, potentially significant costs to the Department of ABC to convert temporary authorizations to permanent premises expansions. The Department of ABC has issued approximately 10,000 COVID-19 temporary authorizations, and approved COVID-19 temporary catering authorizations remain in effect today. It is unknown how many of the approved temporary authorizations are eligible for a permanent premises expansion. However under current law, licensees are already authorized to apply for a permanent premises expansion. To the extent that a large number of temporary catering authorizations seek conversion to permanent premises expansions, there could be substantial licensing workload to the Department.

The California Department of Public Health does not anticipate a fiscal impact.

SUPPORT: (Verified 8/30/21)

California Restaurant Association (source)
Bowling Centers of Southern California
California Travel Association
Capri Club Restaurant
Central City Association
City of Glendora
City of San Diego
City of Santa Monica
Eric Garcetti, Mayor, City of Los Angeles
Hollywood Chamber of Commerce
Independent Hospitality Coalition
Hillcrest Business Association
League of California Cities
Los Angeles Business Council
Los Angeles County Board of Supervisors
Los Angeles County Business Federation
MacLeod Ale Brewing Company
San Gabriel Valley Council of Governments
Small Business California
Terroni
Three Mules Restaurant
Valley Industry and Commerce Association
Westside Council of Chamber of Commerce
Whole Cluster Hospitality

OPPOSITION: (Verified 8/27/21)

Alcohol Justice
Asian American Drug Abuse Program, Inc.
California Alcohol Policy Alliance
Future Leaders of America
Paso por Paso
Pueblo y Salud, Inc.
San Marcos Prevention Coalition
Women's Christian Temperance Union of Southern California

ARGUMENTS IN SUPPORT: According to the Los Angeles County Business Federation, "the restaurant industry has been disproportionately affected by COVID-19. Out of 1.4 million restaurant workers in California prior to the

pandemic, approximately 1 million of them have been laid-off or unemployed during the past year. In Los Angeles County, Yelp estimated that 15,000 restaurants have closed permanently or suspended operations in the past year due to the mandated COVID-19 closures. AB 61 will bring much needed relief to the restaurant industry by allowing local cities to expand outdoor dining programs and coffee bars to be set up outdoors."

ARGUMENTS IN OPPOSITION: According to Alcohol Justice, "AB 61 is an undeserved and unnecessary giveaway to restaurants that effectively takes away local control and forces the Department of ABC to reduce regulations. If passed AB 61 will expand availability of alcohol to locations, events, and public spaces, thus extensively threatening public health and safety."

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
8/31/21 9:23:35

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

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

THIRD READING

Bill No: AB 68
Author: Quirk-Silva (D), Fong (R), Salas (D) and Villapudua (D)
Amended: 8/26/21 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 9-0, 7/8/21
AYES: Cortese, Bates, Caballero, Eggman, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 77-0, 6/3/21 - See last page for vote

SUBJECT: Department of Housing and Community Development: California Statewide Housing Plan: annual reports

SOURCE: California Apartment Association

DIGEST: This bill revises and modernizes the quadrennial Statewide Housing Plan (Plan) and expands the requirements of the annual report from the Department of Housing and Community Development (HCD).

ANALYSIS:

Existing law:

1) Requires that HCD develop a Plan in cooperation with specified entities and that the Plan serves as a state housing plan for all relevant purposes.

2) Requires the Plan to include certain information, including:

   a) A statement of housing goals, policies, and objectives.

   b) An evaluation and summary of housing conditions in the state, including availability of housing for all economic segments of the state. The

evaluation shall also include summary statistics for all counties, all multicounty metropolitan areas, and rural areas, as specified. The evaluation shall include the existing distribution of housing by type, size, gross rent, value, and, to the extent data is available, condition, and the existing distribution of households by gross income, size, and ethnic character for each of those areas.

c) A determination of the statewide need for the year the Plan is revised and four years ahead. Need is defined as the minimum number of units necessary to be built or rehabilitated in order to provide sufficient housing to house all residents of the state in standard, uncrowded units in suitable locations.

d) Goals for the provision of housing assistance for the plan period, established as the minimum number of households to be assisted to result in a substantial reduction in the number of moderate-income, low-income, and very low-income households considered cost-burdened.

e) Recommendations for actions by federal, state, and local governments and the private sector that will contribute to the attainment of the housing goals established for California.

f) A housing strategy that coordinates the housing assistance and activities of state and local agencies, including the provision of housing assistance for various population groups including, but not limited to, elderly persons, persons with disabilities, large families, families where a female is the head of the household, farmworker households, and other specific population groups as deemed appropriate by HCD.

3) Provides that, for the next revision on or after January 1, 2020, and each subsequent revision thereafter, the Plan shall include a 10-year housing data strategy that identifies the data useful to enforce existing housing laws and inform state housing policymaking.

4) Requires the HCD to complete an annual report on or before December 31st of year, which includes specified information, including:

a) The number of housing units assisted by those programs;

b) The number of individuals and households served and their income levels;

c) The distribution of housing units among various areas of the state;

d) The amount of other public and private funds leveraged by the assistance provided by those programs;

e) Information detailing the assistance provided to various groups of persons by programs that are targeted to assist those groups.

5) Requires HCD, pursuant to AB 72 (Santiago and Chiu, Chapter 370, Statutes of 2017), to review any action or failure to act by a city or county that it determines is inconsistent with an adopted housing element. Requires HCD to notify the city or county, and authorizes HCD to notify the state Attorney General, that the locality is in violation of state housing element law or has taken an action in violation of the following: (a) the Housing Accountability Act; (b) no-net-loss-in zoning density law, which limits downzoning and density reductions; (c) Density Bonus Law; and (d) prohibiting discrimination against affordable housing.

This bill:

1) Reorganizes existing statutory sections related to the Plan and creates a dedicated chapter to the Plan and the plan update, created by HCD.

2) Updates the content of the Plan on or after January 1, 2023, by adding the following:

   a) An inventory of the number of affordable units needed to meet the state's affordable housing needs for the plan period.

   b) Technical updates and provide technical recommendations, including but not limited to the following:

      i) Recommendations for modernizing statutory and regulatory terminology.

      ii) Updating cross references to all relevant reports and studies relied on in the plan and used in this part.

3) Authorizes HCD to use data collected by the Homeless Coordinating and Financing Council to meet the requirements of (2) above.

4) Requires HCD to report annually on grant programs administered by HCD during the previous fiscal year:

   a) The time between the issuance of an award letter and the delivery of the standard agreement to the awardee, as well as the time between the delivery of the standard agreement to the awardee and its execution.

b) A comparison of how the time between award letter, standard agreement, and standard agreement execution varies across HCD-administered programs.

c) Changes to the information reported in this section for each program since the previous annual report; and

5) Requires HCD to develop and publish an annual report that includes information regarding land use oversight actions related to housing that were active during the previous fiscal year pursuant to its AB 72 authority, including, but not limited to, all of the following:

a) The number of land use oversight actions related to housing taken against cities and counties.

b) The outcomes of those oversight actions.

c) The median time between the initiation of each oversight action and its resolution.

d) The reports required under this section shall be published and made available to the public on the department's internet website.

Comments

1) *Author's statement*. "Last year, the California State Auditor issued a report that found that the state lacks an effective approach to planning and financing development of affordable housing at both the state and local level. While this body has taken drastic steps to address this crisis and spur housing production, much-needed improvements must be made to more effectively plan for development of affordable housing where it will have the greatest impact. The state has dedicated billions of dollars in investments in new housing. It is important that we make sure the state has the tools and resources needed for a sound, well-coordinated plan that effectively uses its financial resources efficiently, and effectively provides the most impact to support affordable housing."

2) *Statewide Housing Plan*. Existing law requires HCD to develop a Statewide Housing Plan, in consultation with private housing industry and local housing and planning agencies. It must revise that plan at least every four years. According to the latest Statewide Housing Plan Update from the HCD, the majority of California renters are considered cost-burdened and pay more than 30% of their household income towards rent. About one-third of California

tenants (approximately 1.5 million households) are considered severely cost-burdened and pay more than 50% of their income towards rent.

3) *HCD enforcement authority*. Existing law (AB 72 of 2017) requires HCD to notify the jurisdiction, and authorizes HCD to notify the Attorney General, of specified violations of state housing law. This bill adds to that list, violations of the Housing Crisis Act (HCA), violations of affirmatively furthering fair housing requirements, violations of SB 35 requirements (streamlined ministerial approval for certain housing projects), violations of AB 2162 requirements (streamlining for permanent supportive housing), and violations of AB 101 requirements (streamlining for low-barrier navigation centers).

4) *State Auditor's Report.* Last year, the State Auditor published Report 2020-108 titled, *California's Housing Agencies: The State Must Overhaul Its Approach to Affordable Housing Development to Help Relieve Millions of Californians' Burdensome Housing Costs*, which identified several deficiencies in the State's approach to affordable housing development and provided several recommendations for improved coordination, program administration, and oversight. Specifically, the Auditor notes that California's key housing agencies currently do not have "a sound, well-coordinated strategy or plan for how to most effectively use their financial resources to support affordable housing."

   The audit notes specific information and analysis missing from the most recent Statewide Housing Plan that, if required in subsequent updates, could better guide the state in its efforts to address the housing crisis. This bill seeks to update the Statewide Housing Plan in response to the Auditor's report. In particular, this bill requires future Statewide Housing Plan updates to include an inventory of the number of affordable units needed to meet the states affordable housing needs for the plan period. Additionally, this bill adds in reporting on the median time between the issuance of award letters and standard agreements in HCD's grant programs. Lastly, this bill requires HCD to report annually on the number of land use oversight actions related to HCD's AB 72 authority that were active during the prior year.

5) *Senate Appropriations Amendments.* Recent amendments taken in the Senate Appropriations Committee remove several data points that would have been required to be included in the Statewide Housing Plan updates.

Related/Prior Legislation

AB 215 (Chiu, 2021) increases the enforcement authority of the state Department of Housing and Community Development (HCD) in relation to violations of state housing law. *The bill is on the Senate Floor.*

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.

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

According to the Senate Appropriations Committee:

- HCD estimates annual costs of approximately $178,000 annually for 1.0 PY of staff time to identify, gather, and report data necessary for the plan and reports, and to gather and report land use actions related to housing and outcomes. (General Fund)

- Minor and absorbable costs for the Homeless Coordinating and Financing Council to coordinate with HCD to provide specified data requirements. (General Fund).

SUPPORT: (Verified 8/26/21)

California Apartment Association (source)

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 77-0, 6/3/21
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, 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: Muratsuchi, Waldron

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/31/21 9:23:35

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

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

THIRD READING

Bill No: AB 74
Author: Lorena Gonzalez (D) and Santiago (D), et al.
Amended: 9/1/21 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 12-0, 7/12/21
AYES: Hueso, Dahle, Becker, Bradford, Dodd, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Borgeas, Grove

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 78-0, 6/1/21 - See last page for vote

SUBJECT: Communications: universal service: lifeline program

SOURCE: Author

DIGEST: This bill requires the California Public Utilities Commission (CPUC) to make various changes to the enrollment and recertification process for California's Lifeline program, including, but not limited to, requiring the CPUC to allow Lifeline subscribers to recertify their eligibility for the program electronically without the use of personal identification number (PIN).

Senate Floor Amendments of 9/1/21 delete rolling recertification deadlines and remove a goal for California Lifeline enrollment rates to match those for the federal Lifeline program.

ANALYSIS:

Existing law:

1) Establishes the Lifeline 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.

2) Clarifies that minimum communications needs includes the ability to make phone calls and access electronic information services. (Public Utilities Code §873)

This bill:

1) Requires the CPUC to modify Lifeline enrollment and recertification rules by March 1, 2022, to do the following:

   a) Enable a Lifeline subscriber to enroll in the Lifeline program directly online using an electronic signature.

   b) Enable a Lifeline subscriber to complete the annual recertification process online using an electronic signature, or by telephone using a telephonic signature. This bill requires the CPUC's third-party administrator for the Lifeline program to verify the Lifeline subscriber's identity using the personally identifiable information that the administrator has on file.

   c) Prohibits the CPUC from requiring a Lifeline subscriber to use a PIN to verify their identity during the recertification process.

   d) Provide an option for Lifeline subscribers to receive communications regarding their Lifeline subscription in an electronic format, including, but not limited to, email and short message service.

2) Requires the CPUC to consult with Lifeline service providers, the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) to update Lifeline rules by January 1, 2023, with a goal of achieving recertification rates equivalent to those achieved for the federal Lifeline program.

3) Requires the CPUC to annually post the participation and recertification rate for Lifeline on its internet website.

Background

The Lifeline program helps ensure that low-income Californians have access to affordable communications. 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.

Saying goodbye to pink envelopes. Low-income Californians eligible for Lifeline benefits can enroll in the program directly through a participating telecommunications provider. On an annual basis, Lifeline participants must demonstrate their continued eligibility for the program through a recertification process. While statute does not specify mechanism that the CPUC must use to prevent waste, fraud, and abuse of Lifeline benefits, federal rules generally require agencies administering Lifeline programs to take certain steps to verify the identity of program participants and ensure that participants are eligible for Lifeline benefits. Currently, the CPUC uses a unique PIN, which is mailed to participants at the time of recertification in a pink envelope. Participants must use this PIN when submitting information demonstrating that they are still eligible for Lifeline. Use of a mailed PIN can pose challenges for certain Lifeline subscribers who move frequently or primarily use electronic communications. However, some subscribers that lack sufficient broadband resources may prefer mailed communications. This bill requires the CPUC to adopt Lifeline rules to eliminate the need for a PIN and instead require the CPUC's third party-administrator to verify the subscriber's identity using personally identifiable information that the third-party administrator already has on file. This bill also requires the CPUC to provide an option for Lifeline subscribers to receive communications regarding their Lifeline subscription in an electronic format, which may include email and short message service (SMS) notifications.

California's Lifeline participation rate exceeds federal rates, but recertification remains a challenge. This bill requires the CPUC to update Lifeline program rules with the goal of achieving recertification rates similar to those for the federal Lifeline program. The supplemental report to the 2018-19 Budget Act required the Legislative Analyst's Office (LAO) to review the Lifeline program's caseload and budget estimates and make recommendations on how the CPUC could improve budget and enrollment estimates. The supplemental report also required the LAO

to analyze and recommend ways to improve Lifeline enrollment and recertification. In April 2019, the LAO released a report addressing these requirements. In its report, the LAO noted that 40 percent of eligible households were enrolled in the program, and the LAO recommended that the Legislature direct the CPUC to evaluate the reasons why eligible households do not enroll in the program. In February 2020, the CPUC opened a new proceeding (R. 20-02-008) to make program changes to the Lifeline program. As part of this proceeding, the CPUC is exploring opportunities to update the Lifeline program's rules for recertification and improving program enrollment.

Since the LAO report, participation rates for California's Lifeline program have increased. According to information provided by the CPUC, the California Lifeline program currently has a participation rate of 54 percent based on participation data from all states. While this participation rate indicates that there are a significant number of households eligible for Lifeline that are not enrolled in the program, California's participation rate is the second highest in the nation – only Puerto Rico's Lifeline participation rate exceeds California's rate. Despite having one of the highest Lifeline participation rates in the nation, California's recertification rate is lower than that of the federal Lifeline program.

One size does not fit all: California likely needs state-specific resources to improve Lifeline recertification without lowering participation. Recertification rates of the California and federal Lifeline programs may differ for a variety of reasons; however, USAC uses a national verifier to verify a subscriber's eligibility at recertification. Implementation of the national verifier system shifted responsibility for verifying a Lifeline subscriber's eligibility from participating telecommunications companies to the national verifier system. The system can check databases of federal programs with adjunctive eligibility to ensure that a Lifeline participant is eligible to remain in the Lifeline program. However, the GAO's 2021 report indicates that national Lifeline participation rates have declined since the implementation of the national verifier. It is not yet clear if that participation reduction is related to the transition to the national verifier.

Related/Prior Legislation

SB 394 (Hueso, 2021) modifies the definition of a "household" for the purposes of determining Lifeline eligibility to clarify that eligible individuals that are separate economic units sharing the same physical address can each qualify for Lifeline. The bill was passed by the Legislature.

SB 546 (Wilk, 2021) requires the CPUC to continue the iFoster program until the CPUC ensures that those foster youth enrolled in the pilot project will have

equivalent telecommunications benefits when the program ends and the CPUC has expanded the eligibility criteria for the Lifeline program to include foster youths. The bill is a two-year measure.

SB 203 (Bradford, Chapter 335, Statutes of 2020), as passed by the Senate Energy, Utilities and Communications Committee, would have made a variety of changes to Lifeline enrollment and eligibility, including updating the definition of a household for the Lifeline program to conform to the FCC's definition. The bill was amended into a different subject matter.

SB 704 (Bradford, 2019) would have made various changes to Lifeline enrollment and eligibility, including modifying the program's definition of a household. The bill was vetoed.

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

According to the Senate Appropriations Committee:

- The CPUC estimates one-time costs of $755,000 and ongoing costs of $196,000 annually (Universal Lifeline Services Trust) to adopt and implement updated rules for the LifeLine program in order to modify the recertification process with the intent to minimize barriers to recertification.

- To the extent that this bill results in increased renewals and greater participation in the LifeLine program, unknown but significant ongoing costs, likely in the tens or hundreds of millions of dollars annually (Universal Lifeline Services Trust), for payment of additional phone subsidies.

SUPPORT: (Verified 9/1/21)

National Association of Social Workers, California Chapter
National Lifeline Association
The Greenlining Institute
The Utility Reform Network
TracFone Wireless, Inc.
TruConnect
Western Center on Law & Poverty

OPPOSITION: (Verified 9/1/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "Mobile phone and broadband connectivity is critical for individuals and families from access to emergency services and healthcare, to telework and remote learning. While the California LifeLine Program provides discounted phone service discounts to low-income households, the difficult and burdensome enrollment and renewal processes can end up preventing households from utilizing the program. AB 74 will reduce barriers to participation in the LifeLine program by revamping and streamlining the outdated process."

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: Sarah Smith / E., U., & C. / (916) 651-4107
9/2/21 16:30:24

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

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

THIRD READING

Bill No: AB 105
Author: Holden (D), et al.
Amended: 8/31/21 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/21/21
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 9-2, 7/13/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Skinner, Stern, Wieckowski
NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 58-12, 6/1/21 - See last page for vote

SUBJECT: The Upward Mobility Act of 2021: boards and commissions: civil service: examinations: classifications

SOURCE: Author

DIGEST: This bill requires diversity appointments to California's governmental volunteer boards, as specified. This bill also modifies state civil service examination processes, as specified, to promote diverse appointments to California civil service positions. This bill also requires state agencies to collect and report diversity data in state employment, as specified.

ANALYSIS:

Existing law:

1) Creates the state civil service that includes every officer and employee of the state except a limited number of specified, exempted officers and employees.

Existing law also requires that the state make "permanent appointment and promotion in the civil service under a general system based on merit ascertained by competitive examination." Case law and custom refer to this provision as the merit principle and it governs the administration of the state's civil service system. (CA CONST. art. VII, §1 and §4)

2) Creates the State Personnel Board (SPB) to enforce the civil service statutes and prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions. (CA CONST. art. VII, § 2 and §3)

3) Establishes the State Civil Service Act to facilitate the operation of the Constitution's merit principle for the state civil service. (GC § 18500).

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

5) Authorizes CalHR to designate an appointing power to design, announce, or administer examinations for the establishment of employment lists as specified. Existing law also permits a designated appointing power to contract with CalHR or another designated appointing power for the purpose of designing, publicizing, or administering an examination. (GC § 18930.5)

6) Requires SPB to prescribe rules consistent with a merit based civil service system to govern appointments classifications, examinations, probationary periods, disciplinary actions, and other matters related to SPB's authority under Article VII of the California Constitution. Existing law also authorizes SPB to conduct audits and investigations of the personnel practices of CalHR and appointing authorities to ensure compliance with civil service policies, procedures, and statutes. (GC § 18502)

7) Permits CalHR and SPB to delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement. (GC §18502)

8) Requires SPB to establish minimum qualifications for determining the fitness and qualifications of employees for each class of position. Existing law also authorizes CalHR to require applicants for examination or appointment to

provide documentation as it deems necessary to establish the applicants' qualifications. (GC § 18931)

9) Requires all state appointing authorities to establish an effective program of upward mobility for employees in low-paying occupational groups. An upward mobility program is one in which the state develops and publishes career opportunities and provides assistance which will allow employees in low-paying occupations to develop and advance to their highest potential. (GC § 19400 and § 19401)

10) Requires all upward mobility programs to include annual goals that include the number of employees expected to progress from positions in low-paying occupational groups to entry-level technical, professional, and administrative positions, and the timeframe within which this progress shall occur. Existing law also makes CalHR responsible for approving each department's annual upward mobility goals and timetables. (GC § 19402)

11) Permits an appointing power, or its authorized representative, to take adverse action against an employee for one or more of causes for discipline as specified. (GC § 19574)

12) Requires CalHR to administer the state's Personnel Classification Plan, including the allocation of every position to the appropriate class in the classification plan, and allocate positions based on the positions' duties and responsibilities. CalHR must include positions in the same class based on the principle of shared criteria, as specified. (GC § 19818.6)

13) Prohibits the inclusion of any question relative to an applicant's race, sex, marital status, or religion in any application blank or form the state requires an applicant to complete and submit to any state department, board, commission, officer, agent, or employee. However, provides that subsequent to employment, the state may collect such data, as specified, for research and statistical purposes. (GC § 8310)

14) Requires state agencies that collect demographic data, either directly or by contract, regarding Californians' ancestry or ethnic origin to use separate collection categories and tabulations for each major Asian group and each major Pacific Islander group, as specified, and to include such categories in every such demographic report by state entities published or released on or after July 1, 2012. (GC § 8310.5)

15) Declares that it is the state's policy that the composition of state boards and commissions shall be broadly reflective of the public including ethnic minorities and women. (Government Code § 11140)

16) Requires the Governor and every other appointing authority to be responsible for nominating a variety of persons of different backgrounds abilities, interests, and opinions but clarifies that it is not the intent of the Legislature that they utilize formulas or specific ratios in complying with the policy. (GC § 11141)

17) Prohibits the state from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. (CA CONST., art. I, § 31)

This bill:

1) Requires that, on or after January 1, 2022, all state boards and commissions consisting of one or more volunteer members or commissioners shall have at least one volunteer board member or commissioner from an underrepresented community.

2) Provides the following definitions:

   a) "Board member or commissioner from an underrepresented community" to mean all of the following: an individual who self-identifies as Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, or Alaska Native; an individual who self-identifies as gay, lesbian, bisexual, or transgender; a U.S. military veteran, as specified; or an individual with a disability, as specified.

   b) "Volunteer member or commissioner" means an "administrative volunteer" who is selected to serve on a board or commission by the appropriate nominating authority and who does not receive any compensation or financial gain from any state agency, as specified. A volunteer may receive per diem and remain a volunteer within the meaning of this section, and that volunteer shall not be considered to be an employee solely on the basis of receiving the per diem.

3) Provides that this bill's requirements regarding the composition of state boards and commission shall only apply as vacancies on state boards and commissions occur. This bill's requirements shall only apply to a vacancy appointment by the Governor or the Governor's designees, the chair of a board or commission or the chair's designees, the Speaker of the Assembly, and the President pro

Tempore of the Senate or Senate Rules Committee, or any combination thereof.

4) Requires the SPB to ensure that it circulates all changes to SPB regulations for public comment.

5) Requires CalHR to oversee compliance with SPB's rules consistent with a merit-based civil service system governing appointments, classifications, examinations, probationary periods, disciplinary actions, and other matters related to SPB's constitutional authority.

6) Permits CalHR discretion, at the direction of and in conjunction with SPB, to conduct audits and investigations of personnel practices of other departments and appointing authorities to ensure compliance with civil service policies, procedures, and statutes.

7) Requires CalHR, pursuant to a process established by SPB, to investigate complaints filed by employees in a state department's equal employment opportunity program and personnel office, other civil service employees, applicants, and members of the public alleging violations of civil service laws and report findings to SPB for adjudication.

8) Requires state agencies that collect demographic data, either directly or by contract, regarding Californians' ancestry or ethnic origin to use separate collection categories and tabulations for the following and to include such categories in every such demographic report by state entities published or released on or after January 1, 2022:

   a) African Americans who are descendants of persons enslaved in the United States; and

   b) Africa Americans who are not descendants of persons enslaved in the United States, including, but not limited to, African Blacks, Caribbean Blacks, and other African Americans or Blacks, as specified.

9) Defines "Core competencies" to mean the particular education, experience, knowledge, and abilities that each applicant is required to have in order to be considered eligible for a particular group of classifications and requires departments to include a description of the core competencies required for a position in its examination announcements, as specified.

10) Requires SPB to establish a process that includes diversity and best practices in each aspect of the design, announcement, and administration of examinations for the establishment of employment lists.

11) Requires SPB, in developing minimum qualifications (MQs) for positions to also incorporate standards for statements of qualifications used as examination criteria in determining the fitness and qualifications of employees for each class of position.

12) Permits CalHR discretion to require applicants for examination or appointment to provide documentation as it deems necessary to establish the applicants' qualifications.

13) Requires CalHR or the appointing power to also include in position examination announcements, as specified, the functional core competencies required for the position and the standard statement of qualifications for the position, if applicable.

14) Requires CalHR or the appointing power to maintain all examination materials, including examination questions and any written material, for each examination for three years, after which the appointing power shall dispose of the materials pursuant to a policy adopted by SPB.

15) Requires CalHR or the appointing power to video or otherwise electronically record examinations that have an oral examination component. The responsible department shall inform examinees that they are recording the examination. The responsible department shall maintain the recordings for each examination for three years, after which the responsible department shall dispose of the recordings pursuant to a policy adopted by SPB.

16) Requires CalHR to develop by July 1, 2022, "upward mobility goals" based on each department's workforce analysis and post the model goals on its internet website. This bill authorizes the model goals to include race, gender, LGBTQ, veteran status, and physical or mental disability as factors to the extent permissible under state and federal equal protection laws.

17) Requires CalHR or before July 1, 2022, to provide a copy of the model upward mobility goals and corresponding report outlining the workforce analysis used to develop such goals to each member of the Legislature, as specified.

18) Requires the appointing authority, if it is unable to meet its annual upward mobility goals and timetables for two consecutive fiscal years, to submit a report explaining why it failed to achieve its goals and what requirements are

necessary to facilitate achieving its goals in the subsequent two fiscal years. The appointing authority shall submit the report to the department, the Director of the Department of Finance, and the Legislative Analyst.

19) Requires each appointing power to provide CalHR no later than every April 1 a report detailing specified racial, ethnic, sexual orientation, and gender data of its averse actions against employees and requires CalHR to include the data by every June 1 in its existing annual workforce analysis and census report and submit the report to the Legislature. However, an employee has discretion whether to provide the requested data or information elements regarding race, ethnicity, gender identity or sexual orientation for inclusion in the report and an appointing power may not require the employee to disclose this information.

20) Includes a severability clause so that if any provision of this bills or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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

SUPPORT: (Verified 8/27/21)

African American Community Empowerment Council
California State NAACP
Coalition for a Just and Equitable California
National Assembly of American Slavery Descendants, Los Angeles

OPPOSITION: (Verified 8/27/21)

Californians for Equal Rights Foundation

ARGUMENTS IN SUPPORT: According to the Coalition for a Just and Equitable California:

> […] [D]iversity in our state workforce means more than just increasing access to positions on boards and commissions for African Americans, particularly those who descend from U.S. Slavery and the employment discrimination of the Jim Crow era. Workforce diversity means our state takes an active, not passive, role in ensuring access, enforcement, and ultimately outcomes. We know our state has more work to do to fully achieve the kind of workforce diversity it both desires and deserves. AB 105 is a big step in the right direction.

ARGUMENTS IN OPPOSITION: According to the Californians for Equal Rights Foundation:

> Under the veneer of addressing "barriers to upward mobility and inclusion for people of color working in California's civil services system", AB105 proposes setting up annual goals and timetables for civil service positions which will "include race and gender as factors". This is tantamount to instituting government handouts and racial preferences, thereby violating the state constitution, stoking racial divisions, and legalizing racial discrimination in public employment. AB 105's implementation would undoubtedly lead to de facto quotas and preferences, which violates a series of federal legislation and the U.S. Constitution.

ASSEMBLY FLOOR: 58-12, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Cunningham, Megan Dahle, Davies, Gallagher, Kiley, Lackey, Mathis, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Chen, Choi, Flora, Fong, Frazier, Mayes, Nguyen, Patterson, Waldron

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/31/21 9:25:26

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

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

THIRD READING

Bill No: AB 107
Author: Salas (D), et al.
Amended: 9/2/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/30/21
AYES: Roth, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez

SENATE MILITARY & VETERANS COMMITTEE: 5-0, 7/14/21
AYES: Archuleta, Eggman, Melendez, Newman, Umberg
NO VOTE RECORDED: Grove, Roth

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: Licensure: veterans and military spouses

SOURCE: Author

DIGEST: This bill expands, commencing 2023, an existing requirement for certain programs within the Department of Consumer Affairs (DCA) to issue temporary licenses to qualified military spouses to instead require all DCA boards to issue temporary licenses within 30 days of receiving documentation that the applicant has met specified requirements, except for those boards that already have an equivalent process. This bill exempts the Board of Psychology from creating a new temporary license program by authorizing a psychologist certified or licensed in another state or Canadian province who is a military spouse and has applied for licensure to practice without a valid license for a period not to exceed 12 months or from the commencement of residency in this state, whichever occurs first. This bill requires the DCA and the Department of Real Estate (DRE) to separately submit

annual reports to the Legislature with specified information relating to the professional licensure of veterans, servicemembers, and their spouses

Senate Floor Amendments of 9/2/21 delay implantation, clarify temporary licenses are not eligible for renewal, require DRE to submit a separate annual report, and address chaptering issues with AB 801 (Archuleta and Roth).

ANALYSIS:

Existing law:

1) Requires a DCA board to expedite the licensure process for an applicant who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders and who holds a current license in another state, district, or territory of the United States in the profession or vocation for which they are seeking a license from the board. (BPC § 115.5)

2) Requires seven DCA boards to issue temporary licenses to an applicant, if the applicant meets specified requirements, including, among other things, that (a) the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders; (b) the applicant holds a current, active, and unrestricted license that confers upon the applicant the authority to practice, in another state, district, or territory of the United States, the profession or vocation for which the applicant seeks a temporary license; and (c) the applicant submits a signed affidavit attesting to meeting the requirements of the temporary license. (BPC § 115.6)

This bill:

1) Expands the existing requirement for certain boards within DCA to issue temporary licenses to qualified military spouses to instead, require all boards under the DCA to issue temporary licenses effective July 1, 2023.

2) Requires applicants to pass a California law and ethics examination if otherwise required by the board for the profession or vocation for which the applicant seeks licensure.

3) Requires a board to issue a temporary license pursuant to this bill within 30 days of receiving documentation that the applicant has met specified

requirements and if the results of the criminal background check do not show grounds for denial.

4) Requires board to submit to the DCA for approval, if necessary to implement this bill, draft regulations necessary to administer this bill by June 15, 2022.

5) Exempts boards from the temporary license requirements if the board has a process in place by which an out-of-state licensed applicant in good standing who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States is able to receive expedited, temporary authorization to practice while meeting state-specific requirements for a period of at least one year or is able to receive an expedited license by endorsement with no additional requirements.

6) Requires the DCA to compile information on military, veteran, and spouse licensure into an annual report for the Legislature.

7) Requires DRE to compile information on military, veteran, and spouse licensure into an annual report for the Legislature.

8) Authorizes a psychologist certified or licensed in another state or Canadian province who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States and who has made application to the Board of Psychology for a license in this state to perform activities and services of a psychological nature without a valid license for a period not to exceed 12 months from the time of submitting their application or from the commencement of residency in this state, whichever occurs first.

9) Specifies that all revenues from fees for temporary licenses issued by the California Board of Accountancy be credited to the Accountancy Fund.

10) Requires a board to revoke a temporary license if the board finds that the temporary license holder engaged in unprofessional conduct or any other act that is cause for discipline by the board.

Background

In October 2016, the Little Hoover Commission released a report entitled *Jobs for Californians: Strategies to Ease Occupational Licensing Barriers*. The report noted that one out of every five Californians must receive permission from the government to work, and for millions of Californians that means contending with the hurdles of becoming licensed. The report noted that many of the goals to

professionalize occupations, standardize services, guarantee quality and limit competition among practitioners, while well intended, have had a larger impact of preventing Californians from working, particularly harder-to-employ groups such as former offenders and those trained or educated outside of California, including veterans, military spouses and foreign-trained workers. The study found that occupational licensing hurts those at the bottom of the economic ladder twice: first by imposing significant costs on them should they try to enter a licensed occupation and second by pricing the services provided by licensed professionals out of reach.

The report found that California compares poorly to the rest of the nation in the amount of licensing it requires for occupations traditionally entered into by people of modest means. According to the report, researchers from the Institute for Justice selected 102 lower-income occupations, defined by the Bureau of Labor Statistics as making less than the national average income, ranging from manicurist to pest control applicator. Of the 102 occupations selected, California required licensure for 62, or 61 percent of them. According to the report, California ranked third most restrictive among 50 states and the District of Columbia, following only Louisiana and Arizona. California ranked seventh of 51 when measuring the burden imposed on entrants into these lower- and moderate-income occupations: on average, California applicants must pay $300 in licensing fees, spend 549 days in education and/or training and pass one exam.

As a result of requirements for licensure for so many professions in California, when the spouse or partner of an active duty member of the military travels with the member to California under military orders, they may be required to apply for a new license, even if they are licensed in a different state. The process of applying for a new license can be lengthy, expensive, and burdensome. Military spouses may under this process multiple times, despite having little choice in when or how often they move.

Aimed at easing burdens, existing law provides for several accommodations of both military family and veteran license applicants. DCA boards are required to ask about the military status of each of their applicants so that military experience may potentially be applied toward licensure training requirements. DCA boards are also required to expedite licensure for military veterans as well as the spouses and partners of active duty military to reduce license processing wait times.

Temporary Licenses. If licensed in another state, and depending on the license, military spouses and other applicants may be able to issue to utilize provisions that recognize out-of-state licenses, also known as reciprocity or licensure by

endorsement. However, depending on the specific license requirements and the potential differences in requirements between states, applicants may still experience long wait times as their qualifications are reviewed.

To address this issue, some DCA boards may issue temporary licenses. In general, temporary licenses allow an applicant to practice for a limited period, allowing them to practice while the remainder of the qualifications is obtained or verified. Since license requirements are intended to protect the public, applicants usually must be able to immediately demonstrate meeting some of the qualifications required for licensure and pass a background check.

Seven DCA boards are also required to issue temporary licenses to military spouses after an appropriate investigation. However, each board specified under the current law administers the temporary licenses differently.

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

According to the Senate Appropriations Committee, DCA anticipates unknown, but likely significant costs ranging in the hundreds of thousands of dollars across its various boards and bureaus to issue temporary licenses specific to the spouses or partners of active duty members of the Armed Forces. The Office of Information Services (OIS) within the DCA estimates total costs of approximately $5.1 million to address additional workload to add temporary licenses for all existing license types. The OIS estimates additional costs of approximately $15,000 for work associated with adding information to each program's website. The Commission on Teacher Credentialing anticipates costs to produce the required report to be minor and absorbable within existing resources. DRE anticipates minor and absorbable costs.

SUPPORT: (Verified 9/1/21)

American Legion - Department of California
AMVETS - Department of California
Beale Military Liaison Council, INC.
California Association for Health Services at Home
California Association of County Veterans Service Officers
California Board of Accountancy
California Defense Community Alliance
California State Commanders Veterans Council
City of Monterey
City of Yuba City
Military Services in California

Monterey Bay Defense Alliance
San Diego Military Advisory Council
South Bay Aerospace Alliance
Travis Community Consortium
U.S. Department of Defense
Vietnam Veterans of America - California State Council
Yuba County
Yuba County Board of Supervisors
Yuba County Supervisor, Gary Bradford, 4th District
One individual

OPPOSITION: (Verified 9/1/21)

Board for Professional Engineers, Land Surveyors, and Geologists
Board of Behavioral Sciences
Dental Hygiene Board of California
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

ARGUMENTS IN SUPPORT: Supporters note that the expanding access to temporary licensing for military spouses will help military families as they relocate due to duty station relocation.

American Legion - Department of California, AMVETS - Department of California, California Association of County Veterans Service Officers, California State Commanders Veterans Council, and the Vietnam Veterans of America - California State Council write in support and notes, "Military families face many challenges as they navigate through deployments, relocations, and the costs associated with frequent, unexpected lifestyle changes. The financial burden of moving can be a huge setback for a military family. Many families moving to California will need to adjust to the higher cost of living. Reducing the financial burden on those families that sacrifice so much for our freedoms should not be financially burdened due to a duty station relocation."

ARGUMENTS IN OPPOSITION: The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board writes that "While the Board supports benefits to members of the military, their spouses or domestic partners, and veterans, the Board is opposed to the elimination of a provision making a temporary license invalid upon the denial of an application. This could allow unqualified individuals authority to practice under a temporary license for 12 months."

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: Sarah Mason / B., P. & E.D. /
9/4/21 7:15:04

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

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

THIRD READING

Bill No: AB 123
Author: Lorena Gonzalez (D), et al.
Amended: 9/2/21
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 65-0, 5/27/21 - See last page for vote

SUBJECT: Paid family leave: weekly benefit amount

SOURCE: Author

DIGEST: This bill revises the formulas for determining benefits available through the State Disability Insurance program (SDI) and the family temporary disability insurance program (Paid Family Leave), for periods of disability commencing after January 1, 2023, by redefining the weekly benefit amount to be calculated based on the individual's earnings and provide a wage replacement of either 65% or 75%. After January 1, 2025, this bill revises the formulas to provide a wage replacement of either 70% or 90% depending on earned wages.

Senate Floor Amendments of 9/2/21 lower the wage replacement increase of 90% that was previously proposed, to the now tiered based on income basis and phased-in approach. The amendments also extend the increased rate to other SDI claims not previously included.

ANALYSIS:

Existing law:

1) Establishes the Employment Development Department (EDD) within the Labor and Workforce Development Agency. EDD is responsible for, among other duties, the administration of the Unemployment Insurance and Disability Insurance programs. (Unemployment Insurance (UI) Code §301)

2) Establishes the SDI program as a partial wage-replacement plan funded through employee payroll deductions that is available (through the DI and Paid Family Leave (PFL) programs) to eligible individuals who are unable to work due to sickness or injury of the employee (including pregnancy), the sickness or injury of a family member, or the birth, adoption, or foster care placement of a new child. (UI Code §2601-3308)

3) States that PFL provides eligible employees up to eight weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, grandparent, grandchild, sibling, or domestic partner, to bond with a minor child within one year of the birth or placement of the child in connection with foster care or adoption, or to participate in a qualifying exigency related to the covered active duty or call to covered active duty of the individual's spouse, domestic partner, child, or parent in the Armed Forces of the United States. (UI Code §3301)

4) Specifies that an individual's PFL "weekly benefit amount" shall be as follows:

    a) Provides a 70% wage replacement for a claimant with income below 33% of the statewide average wage level until January 1, 2022.

    b) Provides 60% wage replacement for a claimant with income at or above 33% of the statewide average wage level until January 1, 2022.

    c) Provides that the wage replacement rate for PFL will revert to 55% for all employees, regardless of income, starting on January 1, 2022.

    d) Limits the amount of PFL payments to the maximum payment for workers compensation temporary disability as established by the Department of Industrial Relations (currently $1,357 per week).

    e) Adjusts the maximum payment for workers compensation disability annually by a formula tied to the statewide average weekly wage. (Unemployment Insurance Code §2655)

5) Specifies that for periods of disability commencing on or after January 1, 2023, if the amount of wages paid an individual for employment by employers during the quarter of the individual's disability base period in which these wages were highest exceeds $1,749.20, the weekly benefit amount shall be equal to 55 percent of these wages divided by 13, but not exceeding the maximum workers' compensation temporary disability indemnity weekly benefit amount established by the Department of Industrial Relations pursuant to Section 4453 of the Labor Code. (Unemployment Insurance Code §2655)

This bill:

1) Revises the formulas for determining benefits under the SDI and the PFL programs to specify that for periods of disability commencing on or after January 1, 2023, but before January 1, 2025, the weekly wage replacement benefit amount shall be:

   a) 65 percent of the wages paid during the quarter of the individual's disability base period in which these wages were highest, as specified, when the amount of wages paid to the individual is more than 70 percent of the state average weekly wage.

   b) 75 percent of the wages paid to an individual during the quarter of the individual's disability base period in which these wages were highest, as specified, when the amount of wages paid to the individual is 70 percent or less than the state average weekly wage.

2) Provides that for periods of disability commencing on or after January 1, 2025, the weekly wage replacement benefit amount shall be:

   a) 70 percent of the wages paid to an individual during the quarter of the individual's disability base period in which these wages were highest, as specified, when the amount of wages paid to the individual is more than 70 percent of the state average weekly wage.

   b) 90 percent of the wages paid to an individual during the quarter of the individual's disability base period in which these wages were highest, as specified, when the amount of wages paid to the individual is 70 percent or less than the state average weekly wage.

3) Specifies that for SDI, the weekly benefit amounts described above apply for the first 12 weeks only, after that they revert to the weekly benefit amount in existing law which is 60-70% depending on income and on or after January 1, 2023, a 55% wage replacement rate.

4) Specifies that "state average weekly wage" has the same meaning as defined in UI Code Section 2655.

Background

Paid Family Leave Program. The SDI program was created in 1946 to provide benefits to workers experiencing wage loss due to a non-work related injury or illness, or due to pregnancy or childbirth. In 2004, California was the first state in the nation to implement a PFL program that provides benefits to workers who need to take time off to care for a seriously ill family member, or to bond with a new child either from birth, adoption, or foster care placement. Effective January 1, 2021, the PFL scope was expanded to include employees taking time off work to assist a military family member under covered active duty or call to covered active duty.

The SDI program is financed solely by worker contributions. The financing structure was designed to ensure the DI Fund's year-end fund balance meets a specified adequacy rate. The EDD uses workers' wages earned in the prior five to 18 months, also known as the base period, to determine their weekly benefit amount (WBA). Pursuant to AB 908 (Gomez, Chapter 5, Statutes of 2016), for 2020, the WBA was determined as follows:

- If the claimant's highest quarterly earnings in their base period are less than $929, the WBA is $50.

- If the highest quarterly earnings are between $929 and $5,741.66, the WBA is calculated at 70 percent of the claimant's highest quarterly earnings in their base period.

- If the highest quarterly earnings are more than $5,741.66, the WBA is calculated at 60 percent of the claimant's highest quarterly earnings or at 23.3 percent of the state average weekly wage, whichever amount is greater, but not to exceed $1,300.

As of June 2020, the average weekly benefit payment paid out by EDD was approximately $664 for DI benefits and $721 for PFL benefits. The DI program pays benefits for a maximum duration of 52 weeks, while the PFL maximum duration is eight weeks effective July 1, 2020, pursuant to SB 83 (Committee on Budget and Fiscal Review, Chapter 24, Statutes of 2019).

The last major changes to the PFL program were made by AB 908 (Gomez) in 2016. That bill increased the 55% wage replacement rate across the board to what

is currently available, as discussed above. These changes first took effect in 2018 and are due to sunset on January 1, 2022. Also of note, the DI and PFL programs do not provide job protection, only monetary benefits; however, the claimants job may be protected through other federal or state laws such as the Family and Medical Leave Act (FMLA, applicable to employers of 50 or more employees and all public agencies) or the California Family Rights Act (CFRA, applicable to employers of five or more employees and all public agencies).

(NOTE: Please see Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information on the impact of increasing the SDI wage replacement rate.)

Comments

Need for this bill? According to the author "Data from the Center for Economic and Policy Research indicates that low-wage workers cannot make use of the PFL program in California when the need arises given that partially-paid leave on minimum wage isn't enough to live on. It's clear that current rates of wage replacement in California are still too low for workers who survive paycheck-to-paycheck to make use of this benefit. Of workers surveyed in California, nearly a third claimed they did not make use of the PFL program due to the limited wage replacement. In 2018, workers making less than $20,000 per year only consisted of 24 percent of overall PFL claims – down from 27 percent in 2017. This is despite the fact that this group of workers make up nearly 40 percent of the overall population of workers contributing to the program, according to data from the Employment Development Department."

The author argues that by increasing the wage replacement rate to guarantee a worker receives 90 percent of their income during the period of their leave, AB 123 addresses a significant hurdle that prevents working parents and caregivers from utilizing this leave program. Removing barriers to accessing these benefits will ensure all workers who pay into the program are able to meet their health and family needs, without sacrificing their financial security during critical moments in life.

Related/Prior Legislation

SB 1383 (Jackson, Chapter 86, Statutes of 2020) provided job-protected leave under CFRA to employees working for employers with five or more employees.

SB 83 (Committee on Budget and Fiscal Review, Chapter 24, Statutes of 2019), beginning July 1, 2020, extended from six to eight weeks the maximum duration of

PFL benefits individuals may receive. SB 83 also included legislative intent language for the Governor to establish a task force to develop a proposal by November 2019, to among other items, address the goal of providing a 90 percent wage replacement rate for low-wage workers.

AB 196 (Gonzalez, Lorena, 2019) would have increased the wage replacement rate for all workers to 100 percent. The bill was later gut and amended to address workers' compensation and COVID-19 for essential occupations.

SB 1123 (Jackson, Chapter 849, Statutes of 2018) expanded the PFL program beginning January 1, 2021, to include time off to participate in a qualifying exigency related to covered active duty, as defined, or call to covered active duty of the individual's spouse, domestic partner, child, or parent in the armed forces.

AB 908 (Gomez, Chapter 5, Statutes of 2016) increased the SDI wage replacement rate from 55 percent to 60 for middle and high-income workers and 70 percent for low-income workers. The bill also eliminated the waiting period for PFL benefits.

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

According to the Senate Appropriations Committee:

- Relative to current law (such that the benefit levels return to 55 percent), EDD estimates this bill would result in additional PFL benefits paid of $826 million in 2022, $1.0 billion in 2023, $1.2 billion in 2024, and $1.2 billion in 2025 (Unemployment Compensation Disability Fund). To the extent that this bill's 90 percent benefit level resulted in increased PFL utilization, the above increases would be higher.

- Participating workers currently pay 1.2 percent of wages, up to the first $128,000 of wages, to fund SDI/PFL benefits. To support the increased payments, this bill would result in an increase in worker contributions by 0.1 to 0.2 percentage points annually, depending on total reserve levels. EDD is authorized to adjust worker contributions to ensure benefits are adequately funded, up to a maximum level of 1.5 percent.

- EDD indicates that, because of the complexity of its legacy information technology systems (IT), this bill's January 2022 start date is not operationally feasible. The department estimates an implementation timeframe of 16 months for a total one-time administrative and IT cost of approximately $3.3 million.

SUPPORT: (Verified 9/2/21)

California Insurance Commissioner Ricardo Lara
AARP California
American Association of University Women – California
California Commission on the Status of Women and Girls
California Faculty Association
California Immigrant Policy Center
California Pan - Ethnic Health Network
California Partnership to End Domestic Violence
California Women's Law Center
City and County of San Francisco
Dolores Huerta Foundation
Equal Rights Advocates
First 5 Association of California
First 5 LA
Friends Committee on Legislation of California
Human Impact Partners
Inland Empire Breastfeeding Coalition
Legal Aid at Work
Mi Familia Vota
NARAL Pro-Choice California
National Association of Social Workers, California Chapter
North Bay Labor Council
Orange County Employees Association
Our Family Coalition
San Francisco Board of Supervisors
San Francisco Department on the Status of Women
San Francisco Women's Political Committee
San Mateo County Child Care Partnership Council
TechEquity Collaborative
UNITE-LA, INC.

OPPOSITION: (Verified 9/2/21)

None received

ARGUMENTS IN SUPPORT: Equal Rights Advocates are in support and write, "An estimated one in six workers claim they experienced one or more instances in the past two years when they needed to take time off from work after the birth or adoption of their child or to care for a family member with a serious health

condition, but were unable to do so. This figure nearly doubles among those with household incomes under $30,000. Data from the Center for Economic and Policy Research indicates that low-wage workers cannot make use of the PFL program when the need arises because a partially-paid leave on minimum wage isn't enough to live on. It's clear that current rates of income replacement in California are still too low for workers who survive paycheck-to-paycheck to make use of this benefit.

"Expanding California's Paid Family Leave program will help ensure financial security for working families who cannot afford to take unpaid or partially-paid leave. AB 123 would guarantee paid family leave is a benefit that working parents and caregivers can afford to use by ensuring 90 percent wage replacement. Because PFL benefits are not subject to state income taxes, this would ensure low and middle-income workers can receive their full take-home pay while on leave. This critical policy will enable all workers and their families to meet their health and family needs without sacrificing their economic security."

ASSEMBLY FLOOR: 65-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, Flora, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Choi, Megan Dahle, Davies, Fong, Gallagher, Kiley, Mathis, Nguyen, Patterson, Seyarto, Smith

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
9/4/21 7:15:10

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

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

THIRD READING

Bill No: AB 215
Author: Chiu (D)
Amended: 8/30/21 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 5-2, 7/1/21
AYES: Wiener, Cortese, Skinner, Umberg, Wieckowski
NOES: Bates, Ochoa Bogh
NO VOTE RECORDED: Caballero, McGuire

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird
NOES: Bates, Jones
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 58-11, 6/1/21 - See last page for vote

SUBJECT: Planning and Zoning Law: housing element: violations

SOURCE: California Housing Consortium

DIGEST: This bill increases the enforcement authority of the state Department of Housing and Community Development (HCD) in relation to violations of state housing law.

Senate Floor Amendments of 8/30/21 require a city or county to make any draft revision to a housing element available for public comment for at least 30 days, as specified; require HCD to post draft revisions on its website; and address chaptering issues.

ANALYSIS:

Existing law:

Housing elements

1) Requires every city and county to prepare and adopt a general plan, including a

housing element, to guide the future growth of a community.

2) Requires local governments to submit their draft housing elements to HCD for review. Requires local governments to adopt their housing elements, accounting for any findings by HCD as to whether or not it is compliant with state housing element law. Requires HCD to review any action or failure to act by local governments that it determines is inconsistent with an adopted housing element.

3) Requires each city and county to provide, by April 1 of each year, an annual progress report to HCD that includes the status of their general plan and progress in its implementation, including the progress in meeting its share of regional housing needs.

HCD enforcement authority (pursuant to AB 72 (Santiago and Chiu, Chapter 370, Statutes of 2017)

4) Requires HCD to review any action or failure to act by a city or county that it determines is inconsistent with an adopted housing element.

5) Requires HCD to notify the city or county, and authorizes HCD to notify the state Attorney General, that the locality is in violation of state housing element law or has taken an action in violation of the following:

   a) The Housing Accountability Act;
   b) No-net-loss-in zoning density law, which limits downzoning and density reductions;
   c) Density Bonus Law; and
   d) Prohibiting discrimination against affordable housing.

Housing Crisis Act (HCA)

6) Establishes the HCA (SB 330, Skinner, Chapter 654, Statutes of 2019), which:

   a) Prohibits certain local actions that would reduce housing capacity. The HCA prohibits downzoning unless the city or county concurrently upzones an equal amount elsewhere so that there is no net loss in residential capacity.
   b) Prohibits a local agency from applying new rules or standards to a project after a preliminary application containing specified information is submitted.
   c) Requires local agencies to exhaustively list all information needed to make a development application complete under the Permit Streamlining Act, limits that list to only those items on the checklist for application required by state law, and prohibits the local agency from requiring additional information.

d) Establishes specified anti-displacement protections.

Affirmatively Furthering Fair Housing (AFFH)

7) Requires each jurisdiction's regional housing needs allocation (RHNA) plan to further five statutory objectives, including AFFH. AFFH is defined as taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

CEQA streamlining

8) Establishes the California Environmental Quality Act (CEQA), which generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those impacts to the extent feasible. CEQA applies when a development project requires discretionary approval from a local government. Existing law includes, among others, the following CEQA exemptions and streamlining:
   a) *Streamlined ministerial approval for certain housing projects.* SB 35 (Wiener, Chapter 366, Statutes of 2017) established a ministerial approval process, not subject to CEQA, for certain multifamily affordable housing projects proposed in local jurisdictions that have not met their RHNA allocation.
   b) *Streamlining for permanent supportive housing*. AB 2162 (Chiu, Chapter 753, Statutes of 2018) streamlined affordable housing projects that include supportive housing and onsite supportive services, as specified.
   c) *Streamlining for high quality homeless shelters*. AB 101 (Committee on Budget, Chapter 159, Statutes of 2019) required, until January 1, 2027, low-barrier and high quality navigation centers, as defined, to be a use by right in areas zoned for mixed uses and non-residential zones permitting multifamily uses if the development meets certain requirements.

This bill:

1) Clarifies and revises existing law provisions requiring HCD to review each jurisdiction's draft housing element and any subsequent amendments. Specifically, this bill:
   a) Requires HCD to report findings to a jurisdiction within 90 days of reviewing the first draft of a housing element (rather than 60 days), or within 60 days for each revision or subsequent draft amendment (rather than 90 days).

   b) Requires the city or county to make the first draft revision of a housing element available for public comment for at least 30 days; if comments are received, the city or county must take at least 10 days beyond the 30-day comment period to consider and incorporate public comment.
   c) Requires HCD, for any subsequent draft revision, to post the draft on its website and to email it to individuals upon request, as specified.

2) Adds the following to the list of housing law violations for which HCD is required to notify the jurisdiction and is authorized to provide notice to the state Attorney General:
   a) HCA.
   b) AFFH.
   c) SB 35 (streamlined ministerial approval for certain housing projects).
   d) AB 2162 (streamlining for permanent supportive housing).
   e) AB 101 (streamlining for low-barrier navigation centers).

3) Clarifies that the existing law authorization for HCD to provide notice to the Attorney General for specified housing law violations does not limit the authority of the Attorney General to bring a suit in an independent capacity to enforce state law.

4) Provides that if the Attorney General declines to represent HCD in any action or special proceeding brought pursuant to a notice or referral under HCD's enforcement authority, HCD may appoint or contract with other counsel.

5) Provides that notwithstanding any other provision of law, the statute of limitations set forth in existing law shall apply to any action or special proceeding brought by the Attorney General or HCD.

Background

Each city and county must revise its housing element every eight years (every five years for some rural areas). Most jurisdictions across the state are entering, or have entered, the sixth regional housing needs allocation (RHNA) cycle. Due to the combination of recent RHNA reforms enacted by the Legislature, and the fact most areas of the state are suffering from a severe shortage of housing due to decades of underbuilding, most regions are receiving a sixth cycle RHNA allocation that is vastly larger than their fifth cycle allocation. Existing law also requires cities and counties to submit annual progress reports to HCD regarding the status and progress in implementing their housing elements. In addition, the 2021

budget directs significant additional resources for HCD's technical assistance efforts to help jurisdictions comply with RHNA and housing element requirements.

Comments

1) *Housing element review*. Existing law requires HCD to review the first draft of a city's or county's housing element within 60 days, and any subsequent amendments or revisions within 90 days. This bill flips those time periods, instead giving HCD 90 days to review the initial draft and 60 days to review revisions and amendments, since the first draft is generally the source of the most extensive discussions between HCD and the jurisdiction.

2) *HCD enforcement authority*. Existing law (AB 72 of 2017) requires HCD to notify the jurisdiction, and authorizes HCD to notify the Attorney General, of specified violations of state housing law. This bill adds to that list, violations of the Housing Crisis Act (HCA), violations of affirmatively furthering fair housing (AFFH) requirements, violations of SB 35 requirements (streamlined ministerial approval for certain housing projects), violations of AB 2162 requirements (streamlining for permanent supportive housing), and violations of AB 101 requirements (streamlining for low-barrier navigation centers).

3) *HCD relationship with Attorney General*. As noted above, existing law authorizes HCD to notify the Attorney General of specified violations of state housing law. This bill clarifies that this authorization does not limit the Attorney General's authority to bring a suit in an independent capacity. It also specifies that if the Attorney General declines to represent HCD, HCD can appoint or contract with other counsel.

4) *Statute of limitations*. This bill clarifies existing law regarding the statute of limitations as it applies to HCD's enforcement authority. Although both HCD and the Attorney General consider the statute of limitations to be three years, existing law is not entirely clear as to whether the limitation period applies outside of housing element compliance. This bill specifies that the statute of limitations in which the Attorney General or HCD may initiate proceedings using their AB 72 authority is three years.

5) *Appropriations amendments*. To address opposition concerns, the author amended this bill twice in the Senate Appropriations Committee. The July 16th amendments removed provisions requiring certain jurisdictions to obtain a pro-housing designation from HCD. The August 16th amendments removed the

process established by this bill for a mid-cycle housing element consultation between HCD and specified jurisdictions it deems to have made insufficient progress toward their RHNA.

The author's amendments in Appropriations also added the HCA, AFFH, SB 35 streamlining, AB 2162 streamlining (permanent supportive housing), and AB 101 streamlining (low-barrier navigation centers), to the list of housing law violations for which HCD must notify the jurisdiction and is authorized to notify the Attorney General. In addition, the amendments clarify HCD authority in reviewing draft housing elements and housing element amendments; authorize HCD to appoint or contract counsel other than the Attorney General, as specified; and clarify a provision regarding the statute of limitations as it applies to AB 72 enforcement.

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

According to the Senate Appropriations Committee:

- HCD estimates costs of approximately $96,000 annually for 0.3 PY of in-house attorney staff time to complete investigations of alleged violations of specified housing laws and refer cases to the Attorney General. (General Fund)

- The Attorney General estimates costs in the low tens of thousands annually related to an increase in workload to handle additional HCD referrals of alleged violations of specified housing laws. (General Fund, in the form of reimbursements from HCD)

SUPPORT: (Verified 9/1/21)

California Housing Consortium (source)
Abundant Housing LA
Attorney General Rob Bonta
Bay Area Council
Bridge Housing Corporation
California Apartment Association
California Association of Realtors
California Building Industry Association
California Chamber of Commerce
California Community Builders
California Council for Affordable Housing
California Rural Legal Assistance Foundation

California YIMBY
Casita Coalition
Chan Zuckerberg Initiative
Council of Infill Builders
Eden Housing
Greenbelt Alliance
Habitat for Humanity California
Hello Housing
Housing Action Coalition
Leadership Counsel for Justice and Accountability
LISC San Diego
Midpen Housing
Modular Building Institute
Non-Profit Housing Association of Northern California
Public Advocates
Public Interest Law Project
San Francisco Bay Area Planning and Research Association
Sand Hill Property Company
Silicon Valley @ Home
Silicon Valley Community Foundation
Silicon Valley Leadership Group
The Two Hundred
Western Center on Law & Poverty

OPPOSITION: (Verified 9/1/21)

California Cities for Local Control
California State Association of Counties
Cities of Barstow, Beaumont, Bellflower, Brentwood, Buellton, Carlsbad, Cerritos, Citrus Heights, Corona, Downey, El Segundo, Fortuna, Foster City, Garden Grove, Goleta, Gustine, Hidden Hills, La Habra, Laguna Niguel, Lake Forest, Lathrop, Lawndale, Los Banos, Manhattan Beach, Menifee, Newport Beach, Norwalk, Novato, Perris, Rancho Palos Verdes, Rancho Santa Margarita, San Bernardino, San Jacinto, San Rafael, Saratoga, Signal Hill, Stockton, Thousand Oaks, Torrance, Ventura, Vista
League of California Cities
Marin County Council of Mayors and Councilmembers
Rural County Representatives of California
South Bay Cities Council of Governments
Sustainable Tamalmonte
Town of Apple Valley

Town of Fairfax
Town of San Anselmo
Urban Counties of California
Ventura Council of Governments

ARGUMENTS IN SUPPORT: The California Housing Consortium, California Homebuilding Alliance, and others state that this bill will increase local accountability to stay on track with implementing their housing elements and will help facilitate much needed housing production.

ARGUMENTS IN OPPOSITION: Cities, counties, and equity organizations state strong opposition to the pro-housing designation requirement, which was removed from the bill in the July 14 amendments. Opponents also state that the "relative progress" metric could hurt unincorporated areas, that HCD's existing enforcement authority is sufficient, and that the mid-cycle consultation requirement created by this bill potentially undermines existing authority. These provisions were removed from this bill in the August 16 amendments.

ASSEMBLY FLOOR: 58-11, 6/1/21
AYES: Aguiar-Curry, Arambula, Berman, Bloom, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Low, McCarty, Medina, Mullin, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Boerner Horvath, Cunningham, Megan Dahle, Davies, Levine, Nguyen, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Bauer-Kahan, Bennett, Chen, Choi, Flora, Kiley, Maienschein, Mathis, Mayes, Muratsuchi

Prepared by: Erin Riches / HOUSING / (916) 651-4124
9/1/21 9:26:48

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

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

THIRD READING

Bill No: AB 229
Author: Holden (D), et al.
Amended: 9/2/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/30/21
AYES: Roth, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Jones

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 7/13/21
AYES: Bradford, Ochoa Bogh, Durazo, Kamlager, Skinner

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 73-0, 5/17/21 - See last page for vote

SUBJECT: Private investigators, proprietary security services, private security services, and alarm companies: training: use of force

SOURCE: Author

DIGEST: This bill adds, beginning January 1, 2023, a course of training in the exercise of the appropriate use of force to current requirements for various categories regulated by the Bureau of Security and Investigative Services (BSIS or Bureau) in order to be issued a firearms permit. Specifies that licensees must deliver the report on the discharge of a firearm, or physical altercation with a member of the public within seven business days and adds incidents involving any physical use of force or violence while on duty to be included. Prohibits a person required to be registered as a security guard from carrying or using a firearm or baton unless the security guard is an employee of a private patrol operator (PPO), the state, or a political subdivision of the state. Increases fine amounts for failing to provide required reports.

Senate Floor Amendments of 9/2/21 resolve chaptering issues with AB 830 (Flora) and AB 1096 (Luz Rivas).

ANALYSIS:

Existing law:

1) Establishes the BSIS within the Department of Consumer Affairs (DCA), which licenses and regulates the private security industry, private investigators, locksmiths, repossessors, and alarm companies. (Business and Professions Code (BPC) §§ 7512 *et seq*.)

2) Requires BSIS to issue a firearms permit to an applicant is a licensed under the PI Act, the Private Security Services Act, or the Alarm Company Act, as specified, when specified conditions are met and when they have determined that carrying and use of a firearm presents no apparent threat to public safety. (BPC §§ 7542.2, 7583.23, 7596.3)

3) Prohibits a private patrol officer from failing to properly maintain accurate and current records of proof of completion be each employee of the licensee of the course in the training of the power to arrest, the security officer skills training, and the annual practice and review, as specified. An employee's completion of the course of training in the exercise of the power to arrest must be certified before the employee is placed at a duty station. Violation of this provision results in a fine of $500. (BPC §§ 7583.2, 7587.8)

4) Requires a person entering the employ of a licensee as a security guard or a security patrolperson to complete a course in the exercise of the power to arrest before being assigned to a duty location. (BPC § 7583.6)

5) Requires a person registered pursuant to the Private Security Services Act to complete at least 32 hours of training in security officer skills within six months from the date the registration card is issued and that that 16 of the hours must be completed within 30 days of the registration card issuance. (BCP § 7583.6)

6) Prohibits a security guard or security patrolperson who is employed by a licensed PPO from being issued a registration card before the instructor of the exercise of the power to arrest course properly certifies that the employee has been taught and the certificate has been sent to the DCA. (BCP § 7583.8)

This bill:

1) Requires a private investigator licensee or qualified manager of a licensee who, in the course of that person's employment or business, carries a deadly weapon to complete a training course in the appropriate use of force. Exempts a peace officer or a federal qualified enforcement officer from this training requirement if that officer has successfully completed a course of study in the appropriate use of force.

2) Specifies, for a proprietary private security officer, that the required training in security skills includes the appropriate use of force. Specifies that this training requirement does not apply to a peace officer who has successfully completed a course of study in the appropriate use of force.

3) Prohibits a registered security guard from carrying or using a firearm or baton, unless the security guard is an employee of a PPO licensee or an employee of the state or a political subdivision of the state.

4) Requires a security guard or patrolperson, who in the course of their employment or business carries a firearm, to complete a course of training in the appropriate use of force. Specifies that the completion of a course in the appropriate use of force is a condition for the issuance of a registration. Specifies that this requirement does not apply to a peace officer or a federal qualified law enforcement officer who has successfully completed a course in the appropriate use of force.

5) Directs the BSIS to develop an outline for the course and curriculum for the skills trainings in consultation with the Commission on Peace Officer Standards and Training. Allows the course of training in the appropriate use of force to be administered, tested, and certified by any licensee or by any organization or school approved by the BSIS. Requires the training to include specified topics.

6) Requires the appropriate use of force training to be conducted through traditional classroom instruction, which means instruction where the instructor is physically present with students in a classroom for a minimum of 50 percent of the course and is available to answer students' questions while providing the required training. In this setting, the instruction provides demonstrations and hands-on instruction in order to establish each student's proficiency as to the course content.

7) Permits the BSIS to deny, suspend, or revoke a license under the Private Security Services Act if they determine that the licensee or their manager, or any officers, directors, or partners committed any use of force in violation of the standards prescribed by the BSIS by regulation.
8) Increases fine amounts for failing to deliver to the BSIS a written report describing fully the circumstances surrounding the discharge of any firearm, or physical altercation with a member of the public while on duty and subjects a security guard to a fine of $500 for the first violation and $1,000 for the second violation for failing to report to his or her employer within 24 hours of any incident involving the discharge of any firearm in which he or she is involved while acting within the course and scope of his or her employment.

9) Requires alarm company licensees or agents, who in the course of their employment carry a firearm, to complete a course in the appropriate use of force. Requires every alarm agent to complete a course in the appropriate use of force prior to being assigned to a duty location responding to an alarm system. Increases the number of training hours from two hours to four hours.

10) Delays implementation of the bill's provisions to January 1, 2023. Makes other conforming changes.

Background

BSIS. The Bureau issues licenses, registrations, certificates, and permits; however, for the purpose of this discussion, the terms “license” and “licensee” will be used. There are currently over 433,000 BSIS licenses held by about 350,000 business and individuals serving in the areas of alarm companies, locks, private investigations, private security, repossession, and firearm and baton training facilities.

The Bureau regulates the following Acts:

- Alarm Company Act.
- Locksmith Act.
- Private Investigator Act.
- Private Security Services Act.
- Proprietary Security Services Act.
- Collateral Recovery Act.

Firearms and baton permit requirements. The training course to obtain an initial BSIS firearms permit is comprised of two parts: classroom training/exam and range training. The classroom training consists of eight hours of BSIS specified course materials designed to ensure the individual has a general understanding of the laws governing the possession and use of firearms; use of force/de-escalation of force issues; the parts of a handgun and general handgun safety activities and includes a written exam that must be passed with score of 85% or greater. The range portion consist of six hours of practical training encompassing safety practices in handling and firing firearms and includes firing two 50-rounds (once for practice and the second for scoring) on an actual firearm with live ammunition for the individual to demonstrate proficiency in shooting at a targeted area with an 80% passing score required. The bureau-certified instructor who administered the training is required to sign the permit holder's initial application attesting that the individual completed the required training, passed the exam with a minimum score of 85%, and qualified on the range with a minimum score of 80%.

To obtain a baton permit, a licensee must complete a training course delineated in the BSIS *Baton Training Manual*.

Effective July 1, 2018, a requirement for the issuance of an initial BSIS firearms permit to a security guard registrant or to associate the firearms permit to a security registration under specified conditions is that the registrant complete an assessment to demonstrate they possess appropriate judgment, restraint, and self-control to carry and use a firearm while performing security guard duties. This assessment does not apply to other license types under the Private Security Services Act who are authorized to obtain a firearms permit, or other licensees governed under the Private Investigator Act or the Alarm Company Act who are authorized to obtain a firearms permit.

To renew a firearms permit, the holder must also complete four range qualifications (where a licensee must demonstrate the ability to actually fire a weapon at a target with proficiency) as follows: two range qualifications during each 12-month period of the permit's two-year term with no two range qualifications completed closer than four months apart. In addition, during each qualification the permitholder must complete a two-hour course on use of force and de-escalation of force with passage of the same written exam required for the initial permit required during one of the qualification sessions.

The Bureau-certified instructor who administered the re-qualification training is required to sign the permit holder's renewal application attesting that the

individual completed the required training, passed the written examination with a minimum score of 85% and qualified on the range with a minimum score of 80%.

The Private Security Services Act authorizes the issuance of a BSIS baton permit to a security guard registrant. Baton permit applicants must complete a training course delineated in the BSIS *Baton Training Manual*. All bureau-certified baton training instructors must carry out the training in accordance with the *Manual*'s instructions and content. The permits are issued as secondary licenses, through a Bureau-certified baton training facility, to the security guard registrant or security guard registration applicant. The training facilities obtain the permits from BSIS. Upon completion of a baton training course and the issuance of the baton permit to attendees, the training facility submits the course roster to BSIS, where staff officially associate the permit with the guard registration in BreEZe. Pursuant to current law, a baton permit never expires; however, by operation of law, the baton permit is automatically suspended if the security guard registration to which it is associated becomes invalid (i.e. expired, cancelled, suspended or revoked).

A baton permit does not expire.

Prior Legislative focus on lack of reporting. During the 2015 BSIS sunset review, the Committees asked for more information regarding firearms incidents and determined that the Bureau should develop new reporting protocols to ensure they are made aware of incidents, beyond the practice of relying on licensee and employer self-reporting. SB 1196 (Hill, Chapter 800, Statutes of 2016), which went into effect January 1, 2017, clarified the requirement for a PPO to report an incident with a firearm to BSIS, updating the law to ensure that these incidents are reported to the Bureau within seven days by employers when a security guard employee discharges a firearm while on duty. The bill also increased the fine amount that may be imposed against the private patrol operator for failing to provide the notification as required.

Comments

According to the author, training standards for security guards are administered through regulation, but use of force standards are not clearly defined in statute. Since there is no standard use of force standard, each private security firm is left to establish its own guidance. The Author cites that "The Golden 1 Center is an arena owned by the City of Sacramento and operated by a private entity, the Sacramento Downtown Arena, LLC. Universal Protection Service, LP, is a Pennsylvania

Limited Partnership that was doing business in Sacramento. Universal Protection Service, LP, provides uniformed private security in Sacramento under the name, Allied Universal Security Service.

"Mario Matthews was a Mexican-American, who worked as a warehouse worker. According to a lawsuit filed by his parents, on July 2, 2019, at around 3:30 a.m., after attending an outdoor concert held following two NBA exhibition games, Mario entered the Golden 1 Center through a propped-open door, which was part of the main entrance. Video surveillance showed Mario running around the court and dribbling as if he was playing basketball. Two Universal Protection Security personnel began chasing Mario and eventually detained him.

"The lawsuit alleges that Mario was slammed face-first into a wall, tackled and restrained face-down on the floor. His hands were handcuffed behind his back and the two security personnel got on top of his back. One security guard used his right knee to apply pressure to the side of Mario's neck for approximately four and a half minutes. In addition to the initial two Universal Protection Security personnel, a third security officer placed himself on Mario's back.

"After approximately 10 minutes, several Sacramento Police Department officers arrived and used maximum restraints; they tied his legs together with one strap and another strap around his waist. For a total of 20 minutes, Mario was facedown with as many as four people on top of him.

"Mario became unresponsive and was taken to the hospital. He passed away two days later. The lawsuit claims that the Sacramento County Coroner acknowledged that restraint was a cause of Mario's death. Additionally, the coroner's pathologist noted deep bruising of Mario's back as a result of the weight and pressure that had been placed on him. Mario weighed 125 pounds."

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

According to the Senate Appropriations Committee, this bill will result in costs of about $33,000 to implement and unknown, ongoing costs for staff workload related to reviewing an anticipated increase in incident reports. This additional staff time may be offset to some extent by increased fine revenue. This bill will also result in indeterminate enforcement costs for BSIS to deny, suspend, or revoke a license for any use of force in violation of standards prescribed by regulations.

SUPPORT: (Verified 9/1/21)

California Federation of Teachers
Oakland Privacy

OPPOSITION: (Verified 9/1/21)

None received

ARGUMENTS IN SUPPORT: Supporters appreciate that this bill will prohibit private security workers from carrying or using a firearm or baton unless the security guard is an employee of a private patrol operator licensee or an employee of the state and would require the course in the carrying and use of firearms to include training in the appropriate use of force.

ASSEMBLY FLOOR: 73-0, 5/17/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Calderon, Chen, Flora, Gray, Mathis

Prepared by: Sarah Mason / B., P. & E.D. /
9/4/21 7:15:05

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

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

THIRD READING

Bill No: AB 252
Author: Robert Rivas (D) and Salas (D), et al.
Amended: 8/26/21 in Senate
Vote: 27 - Urgency

SENATE NATURAL RES. & WATER COMMITTEE: 8-0, 7/13/21
AYES: Stern, Jones, Allen, Eggman, Hertzberg, Hueso, Laird, Limón
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 6/2/21 - See last page for vote

SUBJECT: Department of Conservation: Multibenefit Land Repurposing Incentive Program: Williamson Act: compatible uses: contracts

SOURCE: Environmental Defense Fund

DIGEST: This bill establishes, through January 1, 2032, the Multibenefit Land Repurposing Program Act to assist Groundwater Sustainability Agencies (GSAs) in critically overdrafted basins achieve their groundwater sustainability goal by providing grants to public and private entities for projects and programs that reduce groundwater use by converting irrigated agricultural land to new uses that both reduce groundwater demand or use and provide some other measurable benefits to the environment or broader community.

ANALYSIS:

Existing law

1) Establishes the Department of Conservation (DOC) under the California Natural Resources Agency (CNRA) and grants powers and duties to DOC regarding forestry, mines and geology, oil and gas, and soil conservation.

2) Establishes the Sustainable Groundwater Management Act, which:

    a) Requires all critically over-drafted high- or medium-priority basins to be managed, by January 31, 2020, under a groundwater sustainability plan (GSP) that identifies how the applicable basin will achieve groundwater sustainability within 20 years of the GSP's adoption. Provides for alternative plans if the alternative satisfies SGMA objectives for the basin.
    b) Directs the Department of Water Resources (DWR) to designate groundwater basins and evaluate adopted GSPs to assess compliance with SGMA. The assessment may include recommended corrective actions to address any identified deficiencies.
    c) Authorizes the State Water Resources Control Board (SWRCB) to designate a high- or medium-priority basin as probationary if certain requirements are not met, including if the GSP is inadequate or if it is not being implemented in a manner that will likely achieve the sustainability goal. SWRCB may adopt an interim plan for the applicable basin if the local agency does not remedy the identified deficiency.

This bill establishes, through January 1, 2032, the Multibenefit Land Repurposing Program Act to assist GSAs in critically overdrafted basins achieve their groundwater sustainability goal by providing grants to public and private entities for projects and programs that reduce groundwater use by converting irrigated agricultural land to new uses that both reduce groundwater demand or use and provide some other measurable benefits to the environment or broader community. Specifically, this bill:

1) Adopts findings, declarations, and definitions.

2) Directs DOC to establish and administer the grant program pursuant to the Act.

    a) The grant program applies to a project or program in critically overdrafted basins managed under approved GSPs or alternative plans.
    b) The grant program does not apply to a project or program in basins that are not designated critically overdrafted, are designated as probationary, or for which DWR has not yet approved the GSP or alternative plan.

3) Identifies eligible applicants for the grant program, including public agencies implementing a GSP or alternative plan, including GSAs; nonprofits; watermasters or water districts implementing an approved GSP or alternative plan; and tribes.

4) Establishes eligibility for the grant program, including a project or program that reduces groundwater use, and provides other measurable benefits to the environment or broader community, by permanently converting irrigated agricultural land to a new use. This includes:

    a) A program to identify potential land repurposing projects and develop a land repurposing plan.
    b) A project to permanently convert irrigated agricultural land to a new use, including creating or restoring wildlife habitat or seasonal wetland habitat that provides aquifer replenishment, among others.
    c) A purchase of a conservation easement on repurposed land to permanently protect the new uses.

5) Establishes priorities for the grant program, including for projects and programs that maximize habitat consolidation and connectivity, are located adjacent to land with high habitat value, or that provide habitat for endangered plant or animal species.

6) Establishes minimum requirements for the grant program, including that a project or program must:

    a) Be consistent with the approved GSP or alternative plan and relevant city or county general plans, as specified.
    b) Reduce groundwater use and provide one or more other measurable benefits to the environment or broader community. Benefits to the environment or broader community include improving water quality, increasing water supply, and improving soil health, among others.
    c) Include a 50-percent match from nonstate sources. Up to one-half of the required nonstate match may be from in-kind contributions of goods or services. The 50-percent match may be suspended or reduced for projects that provide significant direct benefits to disadvantaged communities.
    d) Require any groundwater recharge achieved under the program to remain in the basin to improve groundwater conditions.

7) Establishes public noticing requirements for grants that fund programs to identify potential land repurposing projects and develop land repurposing plans.

8) Directs DOC, on or before January 1, 2023, in consultation with specified state agencies to develop and adopt guidelines for awarding grants.

    a) DOC must solicit input and participation from specified public and private entities on the guidelines.
    b) The guidelines must contain provisions that:

        i) Determine how a project or program is consistent with GSPs or alternative GSPs and general plans.
        ii) Ensure projects and programs are developed with active participation of specified parties.
        iii) Ensure project benefits are permanent.
        iv) Require, as a part of the application for a project, a projection by year of the quantity of groundwater that would not be pumped as a result of a proposed project and estimated annual groundwater recharge, if any.
        v) Require regular monitoring of projects to measure their impacts on groundwater use and benefits to the environment or broader community, and require annual reporting of those impacts and benefits to DOC and the relevant GSA.

9) Requires DOC to award grants on a competitive basis and to strive to award grants equitably across eligible basins.

10) Requires a grant application to include the estimated annual reduction in groundwater use or demand resulting from a project or program.

11) Authorizes DOC to provide technical assistance to grant applicants.

12) Specifies allow program expenditures, including for CEQA environmental review and up to 10 percent for planning and monitoring, as specified.

13) Establishes reporting requirements, including that DOC submit a report, on or before January 1, 2026, and five years thereafter, to the relevant policy and budget committees of the Legislature that evaluates the performance of the grant program in relation to its goals, as specified.

14) Contains an urgency clause.

Comments

Purpose of the bill. SGMA requires local water users to bring groundwater use to sustainable levels by the early 2040s. To close the groundwater deficit, GSAs in overdrafted basins will have to augment supply, reduce demand, or use some combination of the two. According to the PPIC, new water supplies available to San Joaquin Valley agriculture can address only about one-quarter of the region's long-term groundwater imbalance. At 1.8 million acre-feet per year, that deficit is substantial. This means that reductions in agricultural water use will have to cover most of the groundwater deficit.

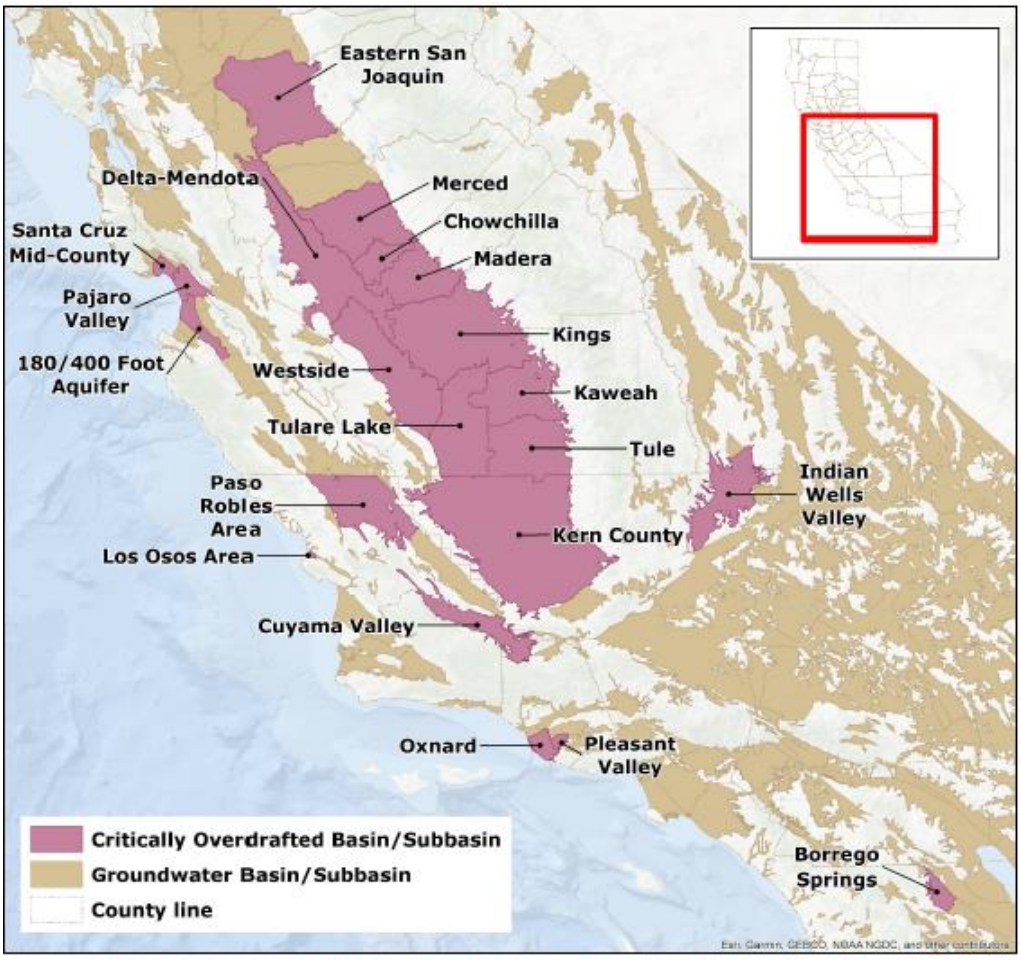
The PPIC estimates that reductions in agricultural water use to meet the groundwater gap would require fallowing 500,000 to 750,000 acres of agricultural land. By design, these lands will have little or no dedicated, ongoing water use. Without intervention, fallowed lands could contribute to dust, weeds, and pest problems that impair air quality and neighboring farmland. Transitioning these lands to other uses that provide multiple benefits, however, could help to avoid these outcomes and support other state goals, including for habitat and biodiversity, soil health and carbon storage, groundwater recharge, water quality, flood plain restoration and management, and open space and outdoor recreation.

To manage this transition effectively would likely require coordination, planning, and financial assistance. This bill seeks to provide funding to permanently convert irrigated agricultural lands to other uses that reduce groundwater use and provide other benefits. For more from the PPIC Report, *Water and the Future of the San Joaquin Valley*, see https://www.ppic.org/wp-content/uploads/water-and-the-future-of-the-san-joaquin-valley-february-2019.pdf.

The Governor's May Revise requested $500 million for a similar purpose. From the BCP, "It is estimated by the Public Policy Institute of California that at least 500,000 acres of land will need to be fallowed to end over-drafting of the state's groundwater supply… The Multi-Benefit Land Repurposing program is intended to be a state-supported yet regionally driven grant program that will support regions in their efforts to repurpose [agricultural] lands to other beneficial uses that minimize anticipated public health, ecosystem, and economic impacts caused by this land use shift… The program will prioritize ecosystem based strategies that are implemented with landowners and effective at minimizing public health, ecosystem, and economic impacts… Through this program, the DOC will provide long-term flexible support for regionally led development and implementation of land repurposing strategies… Activities eligible for funding in this proposal

include ecosystem and project scale planning, local coordination, capacity and training, project implementation, and monitoring." (https://esd.dof.ca.gov/Documents/bcp/2122/FY2122_ORG3480_BCP4701.pdf, p. 12, last accessed 6/29/21)

What is the scope of the proposed program? The program would target irrigated agricultural lands for conversion in critically overdrafted basins. There are 21 of these basins, located mostly in the San Joaquin Valley, as shown in DWR's map below. Groundwater rights have been adjudicated in the Los Osos Valley - Los Osos Area, exempting this basin from the requirement to prepare a GSP. Also, the Corralitos - Pajaro Valley and the Borrego Springs basins have or will have alternative plans. Programs under approved alternative plans are eligible under this bill. Otherwise, there are 107 GSAs covering the remaining 18 critically overdrafted basins that would be eligible to apply once their GSPs were approved. Other public agencies, nonprofits, watermasters, and tribes also could apply in those basins under approved GSPs.



Map created from B118 Groundwater Basin Boundaries Published 02/11/2019. This map published 01/2020.

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

According to the Senate Appropriations Committee:

- Ongoing costs of about $600,000 annually (General Fund, special fund, or bond funds) for the Department of Conservation (DOC) to establish and administer this grant program. This bill would allow for up to 10 percent of program funds to be used for administrative costs. However, this bill has not allocated a specific fund amount to the department and its resource needs may increase with the size of the program.

- Cost pressures, likely in the tens of millions of dollars (General Fund, special fund, or bond funds), to provide funding for the program established by this bill.

SUPPORT: (Verified 8/27/21)

Environmental Defense Fund (source)
American Farmland Trust
Association of California Water Agencies
Audubon California
California Climate & Agriculture Network
California Waterfowl Association
Ceres
Clean Water Action
Community Alliance with Family Farmers
East Kaweah Groundwater Sustainability Agency
Environmental Defense Action Fund
Grassland Water District
Leadership Counsel for Justice & Accountability
League of Women Voters of California
Local Government Commission
Merced Subbasin Groundwater Sustainability Agency
San Luis Delta-Mendota Water Authority
Santa Clara Valley Water District
Self Help Enterprises
Sequoia Riverlands Trust
Sierra Club
Southwest Kings Groundwater Sustainability Agency
Sustainable Conservation
Tri-county Water Authority Groundwater Sustainability Agency
Tulare Basin Watershed Partnership

Turlock Irrigation District
Valley Ag Water Coalition
Water Foundation
Westlands Water District

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "Under existing law, the Sustainable Groundwater Management Act (SGMA), local Groundwater Sustainability Agencies (GSAs) around the state must ensure that water users are not pumping groundwater for irrigation or other uses faster than the local groundwater basin can refill. To do this, significant amounts of farmland in certain regions will need to be taken out of production in order to reduce water demand and protect local groundwater basins.

"AB 252 will ensure that the state is minimizing the harm and maximizing the benefits of SGMA-related land conversion. Specifically, this bill will create the Multibenefit Land Repurposing Incentive Program to support reusing formerly irrigated agricultural land for groundwater recharge, wildlife conservation, pollinator habitat, cattle grazing, and other beneficial and less water-intensive uses. The program will provide grants to GSAs, counties, and others to develop and implement land repurposing plans for their region. Most grant funding will then be distributed by the recipient agency to local farmers to achieve land repurposing goals. Ultimately, AB 252 will ensure that the areas hardest-hit by SGMA-related land conversion are able to achieve groundwater sustainability, as farmers are incentivized via payments to repurpose irrigated lands and create new benefits for their communities and the environment."

ASSEMBLY FLOOR: 78-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, 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: Bigelow

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
8/31/21 9:25:31

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

SENATE RULES COMMITTEE AB 260
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 260
Author: Stone (D)
Amended: 8/31/21 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 6/15/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Jones, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Hertzberg

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: 75-0, 5/13/21 (Consent) - See last page for vote

SUBJECT: Guardianships

SOURCE: Alliance for Children's Rights

DIGEST: This bill (1) establishes processes to ensure abused or neglected children are not improperly diverted into probate guardianships in lieu of the foster care system, and (2) requires the Judicial Council to develop a form regarding the differences between probate guardianships and the foster care system, as specified.

Senate Floor Amendments of 8/31/21 omit provisions relating to subsidies for certain kinship guardianships ordered by the juvenile court.

ANALYSIS:

Existing law:

1) Provides that a child may become a dependent of the juvenile court and be removed from their parents or guardian on the basis of abuse or neglect, as specified. (Welf. & Inst. Code § 300.)

2) Requires whenever the social worker has cause to believe that a child is a victim of abuse or neglect, to immediately make any investigation they deem necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced. (Welf. & Inst. Code § 328.)

3) Requires, whenever a person applies to the social worker to commence proceedings in the juvenile court, that the application be in the form of an affidavit alleging the child is a victim of abuse or neglect. (Welf. & Inst. Code § 329.) The social worker must immediately investigate as they deem necessary to determine whether proceedings in the juvenile court should be commenced. If the social worker does not take action and does not file a petition in the juvenile court within three weeks after the application, they must endorse upon the affidavit of the applicant the decision not to proceed further, including any recommendation made to the applicant, if one is made, to consider commencing a probate guardianship for the child, and the reason therefor, and must immediately notify the applicant of the action taken or the decision rendered by them. (*Id.*)

4) Provides that if a person has applied to the social worker to commence juvenile court proceedings and the social worker does not file a petition within three weeks after the application, the person may, within one month after making the application, apply to the juvenile court to review the decision of the social worker, and the court may either affirm the decision of the social worker or order them to commence juvenile proceedings. (Welf. & Inst. Code § 331.)

5) Authorizes a relative or other person on behalf of a minor, or the minor if 12 years of age or older, to file a petition for appointment of a guardian of the minor's estate or person. (Prob. Code § 1510(a), (b).) Requires the petitioner or proposed guardian, if they know of any pending adoption, juvenile court, marriage dissolution, domestic relations, custody, or other similar proceeding affecting the proposed ward, to disclose this information in the proceeding. (*Id.* at (g).)

6) Requires, unless waived by the court, a court investigator, probation officer, or domestic relations investigator to make an investigation and file with the court a report and recommendation concerning each proposed guardianship of the person or guardianship of the estate. If the proposed guardian is a relative, the investigation must be made by a court investigator; otherwise, the investigation must be made by the county agency designated to investigate the potential dependency. (Prob. Code § 1513(a).) The report must include a social history of

the proposed guardian and proposed ward, the relationship between the two, the anticipated duration of the guardianship, and the plans of both natural parents and the proposed guardian for the stable and permanent home for the child (unless the court waives this requirement for a relative guardian). (*Id.* at (a)(1)-(4).)

7) Authorizes the probate court, if the proposed ward is or may be a victim of abuse or neglect, to refer the matter to the local child welfare agency to initiate an investigation of the referral, as specified. (Prob. Code § 1513(b).) Pending completion of the investigation, the court may take any reasonable steps it deems appropriate to protect the child's safety, including appointing a temporary guardian or issuing a temporary restraining order. (*Id.*) Provides that if dependency proceedings are initiated, the guardianship proceedings are stayed, as specified; otherwise, the probate court retains jurisdiction to hear the guardianship matter. (*Id.*)

8) Provides that, upon hearing the petition, if it appears necessary or convenient, the court may appoint a guardian of the person or estate of the proposed ward, or both. (Prob. Code § 1514(a).) Requires the court to be guided by what appears to be in the best interest of the proposed ward, taking into account the proposed guardian's ability to manage and to preserve the estate, as well as the proposed guardian's concern for and interest in the welfare of the proposed ward. (*Id.* at (e)(1).) Requires the court to give consideration to the ward's preference as to the person to be appointed guardian if the proposed ward is of sufficient age to form an intelligent preference. (*Id.* at (e)(2).)

9) Allows for the establishment of legal guardianship through diversion in the juvenile court, provided the parents and child consent and are aware that no maintenance or reunification services will be offered. (Welf. and Inst. Code § 360.)

This bill:

1) Requires the Judicial Council to develop a form that explains the nature of a guardianship of a minor, the rights, duties, and obligations of a person servicing as a guardian of a minor, and information about the services and supports available to a probate guardian and how they differ from the services and supports available to a caregiver in the child welfare system or a guardian appointed by the juvenile court, as specified. A copy of this form must be included in the notice provided to specified persons before the hearing on the petition for the appointment of a guardian.

2) Requires the probate court to:

   a) find good cause before waiving the guardianship investigation;
   b) include specified information in a referral of a case involving abuse or neglect to a social worker;
   c) delay hearing and determining a guardianship petition pending the results of the investigation and report from the social worker; and
   d) affirm that it has read and considered all reports before ruling on a guardianship petition.

3) Requires the social worker to investigate the referral to the same extent as any other child abuse allegation.

4) Enables the probate court or minor's counsel may apply to the juvenile court for an order directing the agency to commence juvenile dependency proceedings, if the child welfare agency fails to notify the probate court that it has done so.

5) Provides that the juvenile court may either affirm the decision of the social worker or, if it finds a prima facie case that the child is a victim of abuse or neglect, order the social worker to commence juvenile court proceedings. Requires the juvenile court, within five days of completing its review, to transmit its decision, in writing, to the probate court.

6) Provides that neither the appointment of a temporary probate guardian, nor any delay attributable to the child welfare investigation, precludes the juvenile court from ordering the social worker to commence dependency proceedings or from hearing and determining a petition alleging that the child is a victim of abuse or neglect.

Comments

The hidden foster care system. According to the CEB Practice Guide on Guardianships, "[i]n most counties in California, the social welfare departments are understaffed and underfunded."[1] As a result, "in child custody cases where the allegations against the parent of child abuse or neglect are borderline (*i.e.* not substantiated by police or hospital records), child welfare workers may encourage family members to petition the probate court for guardianship rather than bring the case through the social welfare department."[2] The Guide goes on to describe some of the pitfalls of this practice:

[1] *California Guardianship Practice* (Jan. 2021 Update) Continuing Education of the Bar—California, § 2.4, p. 40.
[2] *Id.*

> […] Sometimes, these are uncontested, as the parents agree (affirmatively, or passively by failing to appear). Other times these can be protracted and very bitter court battles. Sometimes, these cases involve failure to protect the child from an environment of domestic violence. More commonly, the alleged problem stems from drug or alcohol abuse by the parent; as the proceeding moves forward, it may involve a de facto reunification plan. However, unlike a reunification plan offered in a dependency proceeding, there are no services offered by the court for the benefit of familial reunification; all efforts in a de facto plan must be initiated and performed by the individuals without the aid of social services. Further, if a dependency proceeding is initiated, the parents, as well as the minor, are entitled to court-appointed counsel, ensuring representation for all parties.[3]

The practice of improperly diverting minors into guardianships rather than the dependency system is commonly known as the "hidden foster care system." This bill seeks to limit this practice. Specifically, the bill would make several changes to enhance coordination between probate courts, social workers, and dependency courts in order to ensure that cases involving allegations of abuse or neglect are reviewed by the dependency courts. The bill also requires the Judicial Council to develop a form regarding the differences between probate guardianships and the foster care system, as specified, which would be provided to specified persons before hearings on guardianship petitions.

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

According to the Senate Appropriations Committee:

- Unknown costs to local child welfare agencies to conduct additional child abuse or neglect investigations. Local costs to comply with this bill would be subject to reimbursement by the state to the extent that the Commission on State Mandates determines that this bill imposes a state-mandated local program. Alternatively, If the local costs resulting from this measure are determined to be included within the realigned responsibilities specified in Proposition 30 (2012), 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. (General Fund, local funds)

- The Judicial Council reports that any fiscal impacts to the courts and the council created by this measure would be minor and absorbable.

---

[3] *Id.* § 1.7, p. 8.

SUPPORT: (Verified 8/31/21)

Alliance for Children's Rights (source)
California Alliance of Caregivers
California Alliance of Child and Family Services
California Youth Connection
Children's Legal Services of San Diego
Extended Hand of Fresno
Foster Care Counts
John Burton Advocates for Youth
Lincoln
National Association of Social Workers, California Chapter
Starting Over, Inc.
Voices Youth Centers
Wayfinder Family Services
Woodland Community College Foster & Kinship Care Education
YMCA of San Diego County, Youth and Family Services

OPPOSITION: (Verified 8/31/21)

National Center for Lesbian Rights

ARGUMENTS IN SUPPORT: This bill's sponsor, the Alliance for Children's Rights, states:

> When children are diverted from the system to a relative's home, the supports, rights, services, and representation provided through foster care are denied to the child, parent, and the caregiver. Diversion away from foster care also means that the child and caregiver do not receive support through the child welfare system, including monthly financial support, education rights, case management, and other supportive services. Beyond access to the services, "[t]he absence of a change in legal custody can also raise questions about kinship caregivers' authority to make health care, educational, or other decisions for children in kinship caregivers' home."[4]

ARGUMENTS IN OPPOSITION: Concerns have been expressed that this bill undermines family choice by preventing families from selecting caregivers to serve as guardians. The National Center for Lesbian Rights writes:

[4] Quoting Josh Gupta-Kagan, *America's Hidden Foster Care System* (2020) 72 Stanford Law Review 841, 881.

Although foster youth who reside with kin have greater stability and better outcomes than youth in stranger placements, regulations frequently preclude kinship placements, even where there are no safety concerns. Many foster youths who could safely reside with kin are instead shuttled between strangers, and community ties which are crucial to their well-being are routinely severed. If seeking guardianships is likely to result in child welfare oversight, parents will be disincentivized from pursuing creative, legal solutions – and youths who feel unsafe at home may hesitate to pursue guardianships, lest they and their siblings become subject to removal and separation.

The author responds that "[w]e all agree that families should be making informed decisions about what is best for their circumstance" and states that this bill "create[s] a process that will address hidden foster care while allowing private kinship families who do not need supports and services to address abuse and neglect to remain in probate court." This bill is not intended to disrupt lawful and proper uses of probate guardianships in which children are in the physical custody of a trusted caregiver due to familial choice or circumstance; rather, it is intended to stop the deliberate evasion of the dependency system—typically through placement with a non-parent caregiver at the behest of a social worker—when the dependency system is the best forum for protecting a child who ordinarily would be removed from an unsafe home by authorities and brought into the system.

ASSEMBLY FLOOR: 75-0, 5/13/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Cervantes, Gallagher, Medina

Prepared by: Josh Tosney / JUD. / (916) 651-4113
9/1/21 16:20:29

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

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

THIRD READING

Bill No: AB 262
Author: Patterson (R), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 7/13/21
AYES: Bradford, Ochoa Bogh, Durazo, Kamlager, Skinner

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 6/2/21 - See last page for vote

SUBJECT: Human trafficking: vacatur relief for victims

SOURCE: Free to Thrive
Made for Them

DIGEST: This bill provides additional legal rights when a victim of human trafficking petitions the court to vacate a conviction for a non-violent crime that was committed while the petitioner was a victim of human trafficking. This bill allows a person, when petitioning to vacate a non-violent conviction because the petitioner was a victim of human trafficking and the conviction was a direct result of being a victim of human trafficking, to appear at the court hearings by counsel and removes time limitations to bring the petition.

ANALYSIS:

Existing law:

1) Provides that if a person was arrested for, or convicted of any nonviolent offense committed while he or she was a victim of human trafficking, the person may petition the court vacate their convictions and arrests. (Penal Code § 236.14 (a).)

2) Requires the petitioner to establish, by clear and convincing evidence, that the arrest or conviction was the direct result of being a victim of human trafficking. (Penal Code § 236.14 (a).)

3) States that the petition to vacate conviction or arrest shall be submitted under penalty of perjury and shall describe all of the available grounds and evidence that the petitioner was a victim of human trafficking and the arrest or conviction of a nonviolent offense was the direct result of being a victim of human trafficking. (Penal Code § 236.14 (b))

4) Provides that if opposition to the petition is not filed by the applicable state or local prosecutorial agency, the court shall deem the petition unopposed and may grant the petition. (Penal Code § 236.14 (d).)

5) States that if the petition is opposed or if the court otherwise deems it necessary, the court shall schedule a hearing on the petition. The hearing may consist of the following:

   a) Testimony by the petitioner, which may be required in support of the petition;

   b) Evidence and supporting documentation in support of the petition; or,

   c) Opposition evidence presented by any of the involved prosecutorial agencies that obtained the conviction. (Penal Code, § 236.14 (f)(1)-(3).)

6) Allows the court after considering the totality of the evidence presented, to vacate the conviction and expunge the arrests and issue an order if it finds all of the following:

   a) That the petitioner was a victim of human trafficking at the time the nonviolent crime was committed;

   b) The commission of the crime was a direct result of being a victim of human trafficking;

   c) The victim is engaged in a good faith effort to distance himself or herself from the human trafficking scheme; and,

   d) It is in the best interest of the petitioner and in the interests of justice. (Pen. Code, § 236.14 (g)(1)-(4).)

7) States that the order vacating a conviction or expunging and arrest shall do the following:

a) Set forth a finding that the petitioner was a victim of human trafficking when he or she committed the offense;

b) Set aside the verdict of guilty or the adjudication and dismiss the accusation or information against the petitioner; and,

c) Notify the Department of Justice (DOJ) that the petitioner was a victim of human trafficking when he or she committed the crime and of the relief that has been ordered. (Penal Code, § 236.14 (h)(1)-(3).)

8) Specifies that a petitioner shall not be relieved of any financial restitution order that directly benefits the victim of a nonviolent crime, unless it has already been paid. (Penal Code § 236.14(i).)

9) Specifies that when the court orders the conviction vacated, the court shall also order the law enforcement agency having jurisdiction over the offense, DOJ, and any law enforcement agency that arrested the petitioner or participated in the arrest of the petitioner to seal their records of the arrest and the court order to seal and destroy the records for three years from the date of the arrest, or within one year after the court order is granted, whichever occurs later, and thereafter to destroy their records of the arrest and the court order to seal and destroy those records. (Penal Code § 236.14 (k).)

10) Requires the petition to vacate the conviction to be made and heard within a reasonable time after the person has ceased to be a victim of human trafficking, or within a reasonable time after the petitioner has sought services for being a victim of human trafficking, whichever occurs later, subject to reasonable concerns for the safety of the petitioner, family members of the petitioner, or other victims of human trafficking who may be jeopardized by the bringing of the application or for other reasons consistent with the purposes of this section. (Penal Code § 236.14 (l).)

11) States petitioner, or his or her attorney may be excused from appearing in person at a hearing for relief pursuant to this section only if the court finds a compelling reason why the petitioner cannot attend the hearing, in which case the petitioner may appear telephonically, via videoconference, or by other electronic means established by the court. (Penal Code, § 236.14 (n).)

12) Specifies that notwithstanding any other law, the records of the arrest, conviction, or adjudication shall not be distributed to any state licensing board. (Penal Code § 236.14 (p).

13) Defines a "nonviolent offense" for the purposes of vacatur relief, as one that does not appear on California's violent felony list. (Penal Code § 236.14(t).)

14) Provides if a defendant has been convicted of solicitation or prostitution, and if the defendant has completed any term of probation for that conviction, the defendant may petition the court for relief. If the defendant can establish by clear and convincing evidence that the conviction was the result of his or her status as a victim of human trafficking, the court may issue an order that does all of the following: (Penal Code § 1203.49.)

    a) Sets forth a finding that the petitioner was a victim of human trafficking when he or she committed the crime;

    b) Orders specified expungement relief; and,

    c) Notifies DOJ that the petitioner was a victim of human trafficking when he or she committed the crime and the relief that has been ordered. (Penal Code § 1203.49 (a)-(c).)

This bill:

1) Specifies that with the exception of victim restitution, the collection of fines imposed as a result of a nonviolent offense that is the subject of the petition be stayed while the petition is pending.

2) States that if the petition to vacate a non-violent conviction because the petitioner was a victim of human trafficking and the conviction was a direct result of being a victim of human trafficking is unopposed, the petitioner may appear at all hearings on the petition, if any, by counsel.

3) Specifies that if the petition to vacate a non-violent conviction because the petitioner was victim of human trafficking and the conviction that was a direct result of being a victim of human trafficking is opposed and the court orders a hearing for relief on the petition, the petitioner shall appear in person unless the court finds a compelling reason why the petitioner cannot attend the hearing, in which case the petitioner may appear by telephone, videoconference, or by other electronic means established by the court.

4) States that a petition can be made and heard at any time after the person has ceased to be a victim of human trafficking, or at any time after the petitioner has sought services for being a victim of human trafficking, whichever occurs later.

5) Provides that the right to petition for relief on a non-violent conviction, as described in this bill, does not expire with the passage of time.

6) Provides that if the court issues an order for vacatur relief it shall also order any law enforcement agency that has taken action or maintains records because of the offense including, but not limited to, departments of probation, rehabilitation, corrections, and parole.

7) Requires that, if the court issues an order for vacatur relief, it shall also order specified entities to seal and destroy the arrest records within one year of the date of arrest, or 90 days from the date the court order for vacatur relief is granted, whichever is later.

8) Requires agencies who are ordered to seal and destroy their records to comply with the order within one year of the date of the court order.

9) Requires that, if the court issues an order for vacatur relief, it shall also provide the petitioner and their counsel with a copy of any form the court submits to any agency related to the sealing and destruction of arrest records.

Background

According to the author:

> Current law is problematic for victims of trafficking who, because of their record, often have difficulty finding a job and therefore cannot afford to pay their fines. In some counties, the court chooses to waive this requirement while others do not—it is up to the discretion of the judge and their interpretation of code. It is a catch 22: having a record prevents victims from building a successful life and finding meaningful employment, yet they cannot petition to have their records cleared until all fines and fees are paid in full. This barrier stops victims from addressing one of the most vital issues preventing them from starting a new life: clearing their record.
>
> Current law is also unclear about how long a victim may have to file a petition to have their record cleared. This ambiguity causes confusion for survivors and the courts alike.
>
> Current law also makes it difficult for victims to clear their name in a timely manner. Three years from the date of arrest or one year after the court order is granted is too long for these victims to seek relief from a crime they are a victim to. When the court issues a decision to have one’s record cleared, that

should be done by the responsible agencies in a timely manner (this bill proposes 90 days as opposed to the current one year).

Additionally, while the law states a victim *may* be excused from appearing in person at a hearing and instead appear through electronic means, this discretion is not always granted. Many victims have multiple offenses in multiple counties, is problematic for victims of trafficking who, because of their record, often have difficulty finding a job and therefore cannot afford to pay their fines. In some counties, the court chooses to waive this requirement while others do not—it is up to the discretion of the judge and their interpretation of code. It is a catch 22: having a record prevents victims from building a successful life and finding meaningful employment, yet they cannot petition to have their records cleared until all fines and fees are paid in full. This barrier stops victims from addressing one of the most vital issues preventing them from starting a new life: clearing their record.

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

According to the Senate Appropriations Committee:

- Unknown, potentially-significant workload cost pressures to the courts to adjudicate petitions that would not be eligible for relief under existing law (e.g., petitions that were not filed in a "reasonable" time). 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*)

- Unknown costs to the Department of Corrections and Rehabilitation related to the sealing and destruction of incarceration and parole supervision records related to cases for which vacatur relief is granted and to supervise and transport individuals in state custody to attend hearings to the extent that remote/video appearances at the proceedings are not exercised. (General Fund)

- Unknown, potentially-significant costs in the aggregate to local probation departments to seal and destroy records related to cases for which vacatur relief is granted. While a mandate, it is unclear if these costs would require reimbursement from the state, as allowing courts to vacate convictions and adjudications may be considered changing the elements of crimes (i.e., excepting human trafficking victims from the crime after the fact). If, however, costs to comply with this measure are deemed a mandate subject to a

subvention of funds, amounts reimbursable to local jurisdictions would be determined by the Commission on State Mandates. (General Fund, local funds)

*Trial Court Trust Fund

SUPPORT: (Verified 8/26/21)

Free to Thrive (co-source)
Made for Them (co-source)
California Catholic Conference
California District Attorneys Association
California Public Defenders Association
Central Valley Justice Coalition
End Violence Against Women International
Every Neighborhood Partnership
Fresno Community Health Improvement Partnership
Fresno Pacific University Center for Community Transformation
Fresno Police Department
Global Center for Women and Justice
Junior League of San Diego
National Association of Social Workers, California Chapter
The Fresno Business Council

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 78-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, 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: Bigelow

Prepared by: Mary Kennedy / PUB. S. /
8/31/21 9:27:30

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

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

THIRD READING

Bill No: AB 304
Author: Quirk (D) and Mathis (R)
Amended: 8/31/21 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 6-1, 6/14/21
AYES: Allen, Bates, Gonzalez, Skinner, Stern, Wieckowski
NOES: Dahle

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

SUBJECT: Contaminated sites: waste releases or surface or groundwater contamination: local oversight: remedial actions

SOURCE: Author

DIGEST: This bill provides state oversight and sets requirements for local officers overseeing remedial investigation and remedial action at sites with released hazardous waste.

Senate Floor Amendments of 8/31/21 adjust the requirements for remedial action agreements to allow for more flexibility to update the agreement as more site information becomes available.

ANALYSIS:

Existing law:

1) Authorizes a responsible party, whenever a release of waste occurs and remedial action is required, to request a local officer to supervise the remedial action. Authorizes the local officer to supervise the remedial action if the local officer determines that adequate staff resources and the requisite technical

expertise and capabilities are available to supervise the remedial action. (Health & Safety Code (HSC) § 101480 (b))

2) Prohibits a local officer from overseeing remedial action at specified sites determined by the Department of Toxic Substances Control (DTSC). (HSC § 101483)

3) Requires a local officer to provide written notice with specified information to DTSC and the appropriate regional water board at least 10 working days prior to entering into an agreement with a responsible party. (HSC § 101487)

4) Authorizes the California Environmental Protection Agency to certify Unified Program Agencies to carry out environmental programs on behalf of the state, including programs related to the regulation of hazardous waste generators and onsite hazardous waste treatment, and the regulation of petroleum underground storage tanks. (HSC § 25404 - 25404.9)

5) Authorizes the State Water Resources Control Board (State Water Board) to certify local agencies as qualified to clean up or oversee a responsible party to clean up soil and groundwater contamination from leaking underground storage tanks. Prohibits local agencies from overseeing the cleanup of leaking underground storage tank sites unless they have been certified by the State Water Board. (HSC § 25297.01)

This bill:

1) Amends the requirements for reimbursement of remediation costs from the Site Cleanup Subaccount to include costs from investigation and cleanup operations required by unified program agencies and local health officers under any section of the Water Code.

2) Amends the definition of "local officer" to mean a county health officer, city health officer, or county director of environmental health who has been granted authority by their jurisdiction to enter into a remedial action agreement and oversee a remedial investigation or remedial action, or both, at a waste release site.

3) Permits a responsible party for the release of hazardous waste to request a local officer oversee the remedial investigation, as defined, remedial action, as defined, or both, if the local officer complies with notification requirements and has provided DTSC and regional water quality control board (regional water board) with the following in the past twelve months:

a) A description of the technical expertise and staff resources available to oversee the investigation and remediation of the release site, including resumes of appropriately licensed professionals;
b) Certification that all applicable statutory requirements will be adhered to, and that if enforcement action is necessary, it will be conducted or promptly referred to DTSC or the regional water board; and,
c) Attestation that accurate records will be maintained and kept up to date, including through the use of the State Water Board's GeoTracker electronic data management system (GeoTracker), and kept in compliance with electronic reporting requirements.

4) Requires the remedial action agreement, as defined, to specify the scope of the proposed remedial investigation the responsible party will carry out to determine the type and extent of contamination caused by the released waste, proposed remedial actions, required reporting and public notifications, and enforcement actions or referrals in the event of noncompliance.

5) Specifies that the local officer and responsible party may amend the remedial action agreement as additional information about the waste release site becomes available.

6) Permits a local officer who enters into a remedial action agreement to withdraw from the agreement after giving the responsible party at least 30 days' notice and making one or more of the specified findings.

7) Authorizes DTSC or the regional water board to inform the local officer that they will retain oversight authority for the waste release during the notification period. Prohibits a local officer from entering into a remedial action agreement if they are informed DTSC or the regional water board will retain oversight authority.

8) Requires a local officer entering into a remedial action agreement to establish a global identification number and public record for the State Water Board's GeoTracker and upload a copy of the remedial action agreement under their global identification number. Requires local officers to comply with electronic reporting requirements, and include these reporting requirements as provisions of the remedial action agreement.

9) Requires local agencies to upload information to the GeoTracker about all active waste release sites for which the local agency is overseeing a remedial action or remedial investigation starting January 1, 2022.

10) Prohibits DTSC or the regional water board from assuming regulatory oversight authority of a waste release after a remedial action agreement has been entered into unless DTSC or the regional water board makes one or more of the specified determinations. Requires notification to occur with a minimum 30-day notice after which the remedial action agreement is no longer valid.

11) Requires local officers, at least 30 days before certifying the cleanup goals in the remedial action agreement were accomplished, to conduct a public notification process that must include, at a minimum, notifying DTSC, the regional water board, agencies with authority to issue building permits on land affected by the waste release, and owners and occupants of the property impacted by the waste release and adjacent to the waste release. Requires the public notice to be posted on GeoTracker under the global identification number for the site.

12) Requires the local officer to provide the responsible party with a document describing the release of waste, remedial action taken, and certification that the cleanup goals were accomplished after the local officer determines a permanent remedy for the release of waste has been achieved. Requires the document be posted on GeoTracker under the global identification number established for the site.

13) Provides that nothing prohibits DTSC, the State Water Board, or regional water board from assuming jurisdiction over a waste release or taking enforcement action.

14) Requires a local officer to provide written notification to DTSC and the regional water board at least 30 days before entering into a remedial action agreement. Requires the written notification to include:

    a) Names and addresses of current site owners if different from the responsible party;
    b) Address and location of site or sites to which the remedial action agreement will apply;
    c) A description of any known local, state, or federal regulatory involvement at the site;
    d) A preliminary description of the release, and the anticipated investigation or remediation, if known; and,
    e) The name, phone number and email address of the local officer's technical staff who are available to oversee the remediation of the release site.

Background

1) *Remedial actions for waste releases*. There are currently thousands of contaminated sites across the state and the unauthorized releases of pollutants pose a risk to public health and the environment. These sites are complex and vary widely. They can include pesticide manufacturing facilities, rail yards, ports, dry cleaners, and refineries where pollutants were released to the soil, groundwater, surface water, and/or sediment. The types of pollutants encountered at these sites are plentiful and diverse and can include solvents, heavy metals, and petroleum. Some of these pollutants can persist in the environment, meaning that today's contaminated sites may be due to historical or recent unauthorized releases of pollutants.

   The State Water Board and DTSC both have authority to do hazardous waste cleanup, but have different jurisdictions. The State Water Board oversees remediation where hazardous waste impacts surface or ground waters of the state, as well as underground storage tank contamination. There are nine regional water boards that exercise rulemaking and regulatory activities in regions defined by watersheds. DTSC oversees all other hazardous waste release cleanup.

   The regional water boards and DTSC are charged with identifying parties that are responsible for the contamination, setting cleanup standards and requirements, and overseeing the cleanup of contaminated sites to ensure that they are properly remediated and do not continue to pose a threat to public health and the environment. State law specifies requirements for cleaning up contaminated sites, and the regional water boards and DTSC have developed extensive policies and procedures for determining the extent and type of contamination, and processes and standards for the proper remediation of contaminated sites.

2) *Status of the voluntary cleanup program*. Local health officers currently oversee remediation sites pursuant to a voluntary agreement for any sites where there is no lead agency (i.e. DTSC or regional water board) providing oversight and where local health officers determine they have the appropriate level of expertise. These sites include redevelopment with various previous site uses, such as gas stations, dry cleaners, industrial sites, gun range contamination, large spills from truck accidents, spills from aboveground tanks, contaminated soils associated with disposal sites, and spills from machinery or other equipment, including transformers.

The United State Environmental Protection Agency estimates that there are between 96,000 and 212,000 contaminated sites in California. DTSC has identified approximately 9,800 contaminated sites statewide. Current law authorizing local health officers to oversee site remediation helps to fill the gap where state agencies may not have the bandwidth to address the large number of contaminated sites in a timely manner.

In order to enter into a voluntary cleanup agreement with a responsible party, a local health officer is required to first provide written notification to DTSC and the appropriate regional water board(s) within 10 working days prior to entering into an agreement with a responsible party to ensure the state is aware of the site remediation and who is conducting it. There are a number of sites where local health officers are prohibited from using the voluntary cleanup agreement authority, including, but not limited to, any State Response, federal Superfund, military, and backlog sites designated by DTSC; sites subject to a cleanup and abatement order for a violation of any waste discharge requirement into a water source; or, sites that are under Phase I Environmental Assessment. The notification required to the state before entering into a voluntary agreement provides the opportunity for the state and local health officer to determine the applicability of the local health officer's authority to oversee the site remediation.

Current law allows the local health officer to determine whether they have the staff resources, technical expertise, and capabilities to oversee site remediation, and if not, they can refer the cleanup to the state. Local health officers can also refer voluntary cleanups to DTSC or the regional water board if the site becomes large or more complex than first expected, or if the responsible party is not in compliance with the remedial action agreement.

The State Water Board's Local Oversight Program certifies local health officers to oversee the cleanup of sites contaminated by leaking underground storage tanks. However, current law does not provide state oversight or certification of local health officers implementing the voluntary cleanup program. There is relatively little data available on cleanups of contaminated sites under the voluntary cleanup program because local agencies are not required to upload their cleanup data to the State Water Board and DTSC's websites and most do not do so voluntarily. Regional water boards have found instances in which cleanups of contaminated sites overseen by a local health officer under the voluntary cleanup program have been inadequate. Specifically, problems have arisen including: inconsistent cleanup oversight practices, under-qualified personnel conducting highly specialized technical oversight, lack of data entry,

lack of public access to case records, poorly documented sites, and approval of site closures that may not meet the regional water board or DTSC requirements even though the site has been certified by the local agency as "clean."

3) *Standards for local health officers.* In order to enhance oversight and transparency, AB 304 sets forth requirements for local health officers, including: providing more detailed written notification to DTSC and the regional water board before entering into a remedial action agreement; specifying proposed remedial actions, required reporting and public notifications, and enforcement actions or referrals in the event of noncompliance in remedial action agreements; and, establishing a global identification number for the site through the State Water Board's GeoTracker and complying with electronic reporting requirements. In order to provide more consistency for the certification of cleanups, AB 304 requires local health officers to provide public notification and documents outlining the remedial action and certification of cleanup goals to the responsible party.

   In addition to the requirements for entering into remedial action agreements and certifying cleanups, AB 304 authorizes DTSC or the regional water board to retain oversight authority before or after entering into a remedial action agreement. AB 304 prohibits DTSC or the regional water board from assuming oversight authority over a release where a remedial action agreement has already been entered into unless DTSC or the regional water board makes one or more of the specified determinations related to insufficient resources to oversee the remedial action or insufficient enforcement authority to ensure the responsible party is in compliance with the remedial action agreement. If DTSC or the regional water board do assume regulatory oversight authority, they are required to provide a minimum 30-day notice, and local health officers will still be able to recover costs from the responsible party for their work up until that point.

Comments

1) *Purpose of bill.* According to the author, "AB 304 will help to ensure that local health officers who oversee the cleanup of contaminated sites have the necessary expertise, knowledge, and resources to carry out remediation responsibilities in a manner that is protective of public health. This bill sets certain requirements for local health officers overseeing a contaminated site cleanup including electronic reporting, public notification, and written notice to DTSC and the State Water Board detailing technical and fiscal resources available for the cleanup. AB 304 will provide consistency to cleanups

throughout the state and reduce the likelihood that cleanups will have be re-opened due to ongoing contamination."

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

SUPPORT: (Verified 8/31/21)

None received

OPPOSITION: (Verified 8/31/21)

None received

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, 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, 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, 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: Holden, Reyes

Prepared by: Gabrielle Meindl / E.Q. / (916) 651-4108
9/1/21 16:20:21

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

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

THIRD READING

Bill No: AB 316
Author: Cooper (D)
Amended: 3/4/21 in Assembly
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 77-0, 6/1/21 - See last page for vote

SUBJECT: State employees: pay equity: under-represented groups

SOURCE: Author

DIGEST: This bill requires state agencies to submit information pertaining to their progress toward gender and ethnic pay equity and gender and minority workforce representation to the California Department of Human Resources (CalHR) so that CalHR can prepare a report thereon and develop plans for agencies to achieve pay equity and workforce representation. This bill also requires each state agency head or their representative to present CalHR's findings regarding the agency's efforts toward pay equity and workforce representation to the Legislature's budget subcommittees when the budget subcommittees are hearing the agency's budget.

ANALYSIS:

Existing law:

1) Requires the CalHR to administer the state's Personnel Classification Plan which includes the allocation of every position to the appropriate class in the classification plan. (Government Code §19818 et seq.)

2) Requires CalHR to assess the adequacy of the Personnel Classification Plan and, as needed, recommend changes to the State Personnel Board. The recommendations must include a need to establish additional classes, or to abolish or alter existing classes. (GC §19818.10)

3) Requires CalHR to review and analyze existing information, including studies from other jurisdictions relevant to setting salaries for "female-dominated jobs," and to provide this information to the appropriate legislative policy committees and the state's collective bargaining units. (GC §19827.2)

4) Establishes the Department of Fair Employment and Housing (DFEH) to investigate complaints of discrimination as specified; prohibits an employer from paying its employees less than it pays employees of the opposite sex for equal work; requires equal pay for employees who perform substantially similar work when viewed as a composite of skill, effort and responsibility, among other provisions; and requires employers to report pay as specified. (GC § 12900 et seq.)

This bill:

1) Requires CalHR to evaluate, prior to January 1, 2023, and once every two years thereafter, all state civil service classifications in the Personnel Classification Plan and prepare a detailed report on gender and ethnicity pay equity in each classification where there is underrepresentation of women and minorities.

2) Requires the report to include at least the following:
   a) A plan for each state agency that is consistent with existing state and federal law to attain pay equity if CalHR finds a discrepancy.
   b) A plan to recruit, attract, and retain women and minorities that is consistent with existing state and federal law in positions where there is an underrepresentation of those subgroups.
   c) Each state agency's efforts that are consistent with existing state and federal law toward meeting the goals for wage parity and increasing the number of women and minorities in the state agency.

3) Requires CalHR to develop the plan(s) in a collaborative manner with each state agency.

4) Requires each state agency by a date and in a format determined necessary by CalHR to provide statistical information to CalHR for each state civil service classification within that state agency.

5) Requires each state agency to submit to CalHR, on or before a date CalHR determines necessary, information regarding the state agency's progress toward the state agency's plans for wage parity and increasing representation of underrepresented groups, including women and minorities. The information shall include a detailed proposed timeline for meeting the goal of wage parity and creating a diverse workforce as specified.

6) Requires CalHR to submit the report to the Legislature no later than January 1 following the completion of the report until January 1, 2031.

7) Requires the head of each state agency, or their representative, to present the facts and findings from the report for each state agency to the appropriate legislative budget subcommittees when the budget of that state agency is before the subcommittee.

Background

Several recent legislative initiatives have targeted the persistent gender pay gap in the state civil service and among underrepresented ethnic groups. Additionally, those initiatives have sought to require the state to measure and address underrepresentation of women and ethnic minorities in civil service positions.

CalHR, under the current and recent past Administrations, initiated civil service reform efforts whose goals include the pay gap and workforce representation issues presented in this bill. However, addressing the pay and workforce representation gaps implicates getting state administrators to challenge, beyond historical discriminatory policies and attitudes, other state personnel practices structured to comply with the constitutional requirement that the state administer the civil service on the merit principle, as well as the challenge of operating within the parameters of complex public sector collective bargaining regimes. The civil service's complex constitutional, statutory, and contractual relationships add additional institutional obstacles to already persistent roadblocks to pay equity and workforce representation.

This bill seeks to continue efforts to breakdown those roadblocks by requiring state agency heads to collaborate with CalHR in developing a plan for each agency to move toward and achieve pay equity and workforce representation for women and ethnic minorities. Additionally, this bill holds agency heads accountable by requiring them to present their efforts toward achieving pay equity and workforce representation at their annual budget hearings before the Legislature's budget subcommittees.

Related/Prior Legislation

AB 271 (Cooper, 2019) was substantially similar to this bill. The bill died on the inactive file in the Senate.

AB 1916 (Cooper, 2018) was substantially similar to this bill. The Governor vetoed the bill, stating in part the following:

> The information called for by this bill is currently provided by [CalHR] and the State Controller's office. …it is reasonably complete and provides a basis for sound legislative review.

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

According to the Senate Appropriations Committee, CalHR indicates that it would incur currently undetermined, but significant programming and staffing costs to comply with the bill's reporting requirements. In addition, this bill will result in unknown ongoing costs across state agencies to interface with CalHR and update it on the implementation of plans to address pay disparities and hiring in identified job classifications.

SUPPORT: (Verified 8/27/21)

American Association of University Women, California
American Federation of State, County and Municipal Employees, AFL-CIO
Association of California State Supervisors
Black Leadership Council
California Association of Professional Scientists
California Hawaii State Conference NAACP
California Labor Federation, AFL-CIO
California Pan - Ethnic Health Network
National Association of Social Workers, California Chapter
Professional Engineers in California Government

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: According to the National Association of Social Workers, California Chapter (NASW-CA), "In 2014, California's statewide gender pay gap, both public and private, was 15.9 percent, meaning women earned 84 cents on the dollar compared to men. This resulted in $37 billion in lost annual income. This disparity impacts not just these women's daily lives but also their

retirement. AB 316 is another step in making California more equitable by helping close the gender and ethnicity pay gap and underrepresentation of women and people of color in state. For these reasons, NASW-CA is proud to support AB 316."

According the California Labor Federation, AFL-CIO, "AB 271 (Cooper) will begin to address this problem within state civil service by collecting relevant data for state employees. The bill will require the Department of Human Resources to evaluate classifications every two years and then report findings related to gender and wage disparities. State agency heads will then be required to detail planned efforts to address wage gaps discovered. With this information and these required steps, we can analyze the numbers to produce effective plans to level the economic playing field for all state workers, regardless of gender or ethnicity."

ASSEMBLY FLOOR: 77-0, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Gallagher, Kiley

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/28/21 11:05:33

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

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

THIRD READING

Bill No: AB 334
Author: Mullin (D), et al.
Introduced: 1/27/21
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/20/21 (Consent) - See last page for vote

SUBJECT: Workers' compensation: skin cancer

SOURCE: Author

DIGEST: This bill expands the existing workers' compensation presumption pertaining to skin cancer by including peace officers from the Department of Fish and Game and the Department of Parks and Recreation whose primary duties are law enforcement.

ANALYSIS:

Existing law:

1) Establishes a workers' compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of and in the course of employment, irrespective of fault. This system requires all employers to secure payment of benefits by either securing the consent of the Department of Industrial Relations to self-insure or by securing insurance against liability from an insurance company duly authorized by the state. (Labor Code §3600)

2) Establishes within the Workers' Compensation system temporary disability benefits (TD) which offer wage replacement equal to 2/3 of an injured employee's average weekly wages for up to 104 weeks while an employee is

temporarily unable to work due to a workplace illness or injury. (Labor Code §§4650-4660)

3) Establishes a rebuttable presumption that development or manifestation of skin cancer is work related for the following employees:

   a) Active lifeguards employed by a city, county, city and county, district, or other public or municipal corporation or political subdivision.

   b) Active state lifeguards employed by the Department of Parks and Recreation.

   This presumption only affects lifeguards employed for more than three consecutive months in a calendar year and extends 60 months after termination. (Labor Code §3212.11)

4) Establishes a minimum and a maximum amount that an employee may receive, which is adjusted annually to reflect rising wage levels. Currently, the minimum benefit is $182 per week, and the maximum benefit is $1,215. (Labor Code §§4650-4660)

5) Entitles specified peace officers to enhanced TD leave, which consists of up to one year of fully paid leave if they *are disabled temporarily or permanently by an injury or illness arising out of and in the course of their duties*, paid for out of the Workers' Compensation Fund. These employees include:

   a) City police officers.
   b) City, county, or district firefighters.
   c) Sheriffs.
   d) Officers or employees of any sheriff's offices.
   e) Inspectors, investigators, detectives, or personnel with comparable titles in any district attorney's office.
   f) County probation officers, group counselors, or juvenile services officers.
   g) Officers or employees of a probation office.
   h) Peace officers listed under Penal Code §830.31.
   i) Lifeguards employed year round on a regular, full-time basis by a county of the first class or by the City of San Diego.
   j) Airport law enforcement officers as defined in Penal Code §830.33.
   k) Harbor or port police officers, wardens, or special officers of a harbor or port district or city or county harbor department.
   l) Police officers of the Los Angeles Unified School District. (Labor Code §4850)

6) Defines the following employees as peace officers:

   a) Employees of the Department of Fish and Game whose primary duties are enforcement of the Fish and Game Code

   b) Employees of the Department of Parks and Recreation whose primary duties are enforcement of the Public Resources Code. (Labor Code §830.2 (e) (f))

This bill adds peace officers from the Department of Fish and Game and the Department of Parks and Recreation whose primary duties are law enforcement to the employees covered by the existing skin cancer workers' compensation presumption.

Comments

Need for this bill?

1) *Presumptions and Workers' Compensation*

   At its core, like other complex systems of justice, the California workers' compensation system is based on a very simple premise. If a worker is injured on a job, the employer must pay for the worker's medical treatment, including monetary benefits if the injury is permanent. In return for receiving free medical treatment, the worker surrenders the right to sue the employer for monetary damages in civil court. This simple premise, sometimes known as the "grand bargain", has stood the test of time for more than 100 years and served California remarkably well – according to relatively recent research of the California Workers' Compensation Institute and RAND, *more than 90% of all workers' compensation claims and requests for medical treatment are approved by employers and insurers.*

   In this context, the creation of presumptive injuries is a notable deviation that exists within the space of the normal operation of the California workers' compensation system. Rather than permit the existing system to operate in its normal course, the Legislature places its thumb on the scale: for these peace officers, for these injuries, employers must accept liability. This is not to say that presumptions have no place within the workers' compensation system. Rather, they should be treated as a specific policy tool for a rare set of circumstances: a group of employees who face an employment-related injury at a higher rate than average and who have difficulty establishing the injury as work-related, *which results in unfair rejections of claims.*

AB 334 expands the existing presumption pertaining to skin cancer, adding peace officers from the Department of Fish and Game and the Department of Parks and Recreation whose primary duties are law enforcement. Notably this presumption already existed for active duty lifeguards, likely due to the sun exposure inherent to their jobs and the relative difficulty by which someone could prove a definitive source of skin cancer. The proposed employees similarly spend a significant portion of their employment hours outside and away from shelter, making an expansion of this presumption potentially warranted.

Solid data on occupational sun exposure and its effect on the propensity of skin are somewhat few and far between. However, both the Canadian and Australian governments have found some correlation between outdoor occupations and skin cancer[1][2]. The author of AB 334 has submitted a study request to the Commission on Health and Safety and Workers' Compensation in February of 2020 to obtain more data; however, it is unknown when the study will be finalized.

2) *Temporary Disability Benefits*

Since AB 334 affects existing presumptive injury statutes, it also affects so-called "4850 Leave" which is an enhanced version of TD Benefits. The goal of TD is to approximate an employee's take home pay during the period after injury when the employee is temporarily unable to work for up to 104 weeks. This is accomplished by basing the weekly TD benefit on 2/3 of the employee's average weekly wages. Because there is a cap, employees who make more than approximately $1,800 per week do not reach this 2/3 goal, but because the benefit is tax free, most employees receive TD benefits roughly equivalent to their regular salaries while they are recovering. 4850 Leave allows a peace officer to have full wage replacement for the first year of TD eligibility, state and federal tax-free. It is important to remember that the quality of and access to healthcare does not differ between these types of leave; the principal difference is the amount of wage replacement, which is a higher percentage under 4850 Leave.

On one hand, benefits like enhanced TD have an important role in statute to affirm the state's commitment to caring for law enforcement personnel who have sacrificed their wellbeing in the course of their jobs. On the other hand,

[1] "Description of the use of a risk estimation model to assess the increased risk of non-melanoma skin cancer among outdoor workers in Central Queensland, Australia" published in the National Library of Medicine
[2] "OSH Answers Fact Sheets: Skin Cancer and Sunlight" Canadian Centre for Occupational Safety and Health, as updated on June 22, 2016

the existence of these enhanced benefits creates, in essence, a second workers' compensation system for a very specific class of workers. This second, heavily partitioned system combines several chaotic factors: (1) presumptive injuries that make rejecting liability very difficult, (2) public employers who have little recourse outside of tax revenue to fund increased workers' compensation costs, and (3) tax incentives arising out of the nature of 4850 Leave.

Related/Prior Legislation

AB 2665 (Mullin, 2020) was substantively similar to AB 334. (Held in Assembly Insurance Committee)

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

SUPPORT: (Verified 7/16/21)

Audubon California
California Fish and Game Wardens Association
California Fish and Game Wardens Supervisors and Managers Association
California Sea Urchin Commission
California Statewide Law Enforcement Association
California Waterfowl
California Wildlife Officers Foundation
Defenders of Wildlife
Endangered Habitats League
Friends of Fish and Game
Mountain Lion Foundation
Oceana
Peace Officers Research Association of California
The Nature Conservancy

OPPOSITION: (Verified 7/16/21)

Acclamation Insurance Management Services
Allied Managed Care

ARGUMENTS IN SUPPORT: The California Fish and Game Wardens Supervisors and Managers Association writes in support, "A rebuttable presumption that skin cancer developed by California's wildlife officers and park rangers is associated with excessive occupational exposure to the sun during their employment would remove unnecessary barriers and would reduce the state's workload associated with initiating and completing workers' compensation investigations on submitted claims. Almost all other California state and local

peace officers qualify for this same presumption through Labor Code 3212.1. AB 334 would ensure that wildlife officers and park rangers – whose jobs clearly involve extensive occupational exposure to the sun – get the same presumption."

ARGUMENTS IN OPPOSITION: Acclimation Insurance Management Services, a third-party administrator, and Allied Managed Care, a utilization review organization oppose this bill. They argue that the bill is not needed, in part because workers' compensation claims are accepted by employers at a rate of nearly 90%. The opponents also argue that by granting a presumption these claims would not be eligible for apportionment. This would mean that consideration of other underlying conditions and non-industrial injuries would not be allowed and any permanent disability claims would have to be allotted to the employer at 100%.

ASSEMBLY FLOOR: 76-0, 5/20/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cunningham, Kalra

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/18/21 14:27:32

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

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

THIRD READING

Bill No: AB 359
Author: Cooper (D), et al.
Amended: 8/26/21 in Senate
Vote: 27 - Urgency

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 7/12/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

SUBJECT: Physicians and surgeons: licensure: examination

SOURCE: California Medical Association

DIGEST: This bill, an urgency measure, authorizes a physician and surgeon licensed in another state, who did not obtain a passing score on all parts of Step 3 of the United States Medical Licensing Exam (USMLE) within four attempts, to be eligible for licensure in California and updates the types of educational activities available to meet continuing medical education (CME) requirements.

ANALYSIS:

Existing law:

1) Prohibits the practice of medicine without a physician's and surgeon's license issued by the Medical Board of California (MBC). (Business and Professions Code (BPC) § 2052)

2) Requires the MBC to issue a physician's and surgeon's license to an applicant who is licensed in another state or a Canadian province if they have meet specified standards, including:

a) They have completed an MBC approved educational program.

b) They have passed an examination determined by the MBC to be equivalent to what is required in California.

c) They have held an unrestricted license for a period of at least four years, not including time spent in a postgraduate training program or clinical fellowship.

d) The MBC determines that no disciplinary actions or adverse judgments or settlements that suggest a pattern of negligence or incompetence.

e) They have completed either at least one year of approved postgraduate training and certified by a specialty board approved by the American Board of Medical Specialties or approved by the MBC; at least two years of MBC-approved postgraduate training; or at least one year of approved postgraduate training and have passed the clinical competency written examination. (BPC § 2135)

3) Authorizes MBC to determine an applicant who is licensed in another state or Canadian province has met educational requirements if they:

a) Have held an unlimited and unrestricted license continuously for a minimum of four years before the date of application.

b) Has completed at least 36 months of MBC-approved postgraduate training and is certified by a specialty board that is a member board of the American Board of Medical Specialties.

c) Are not subject to denial of licensure

d) Have not been the subject of disciplinary action by a medical licensing authority or of an adverse judgment or settlement resulting from the practice of medicine that, as determined by the MBC, constitutes a pattern of negligence or incompetence. (BPC § 2135.5)

4) Provides that an applicant for a physician's and surgeon's license must obtain a passing score on all parts of Step 3 of the USMLE within not more than four attempts. (BPC § 2177(c)(1))

5) Authorizes MBC to establish continuing education (CE) standards for courses that serve to maintain, develop, or increase the knowledge, skills, and professional performance that a physician uses to provide care, or to improve

the quality of care provided to patients, which must include cultural and linguistic competency. (BPC § 2190.1)

6) Requires the MBC, in determining its CE requirements, to consider including a course in a variety of specified topics. (BPC § 2191)

7) Prohibits educational activities that are not directed toward the practice of medicine, or are directed primarily toward the business aspects of medical practice, including, but not limited to, medical office management, billing and coding, and marketing from meeting the CME standards for physicians and surgeons. (BPC §2190.1(f))

8) Specifies that educational activities that meet the specified content standards and are accredited by the California Medical Association or the Accreditation Council for Continuing Medical Education may be deemed to meet CME standards. (BPC § 2190.1(g))

This bill:

1) Authorizes an individual who holds an unrestricted license as a physician and surgeon in another state to be eligible for licensure in California, despite not receiving a passing score on all parts of Step 3 of the USMLE in less than four attempts, if MBC determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine that MBC determines constitutes evidence of a pattern of negligence or incompetence.

2) Authorizes completion of educational activities that include content relating to improved practice management including the use of technology or clinical office workflow, health care facility management including coding or reimbursement, and educational methodology related to teaching in a medical school to count for up to 30 percent of CME requirements.

3) States that this bill is urgent necessary for the immediate preservation of the public peace, health, or safety because California is currently in a declared state of emergency due to the COVID-19 pandemic.

Background

USMLE. The USMLE is a national exam that offers one path for licensure for physicians in the nation, developed to ensure that all licensed physicians and surgeons met the same standards, regardless of the school or country they trained

in. All state medical boards utilize a national examination, the USMLE for allopathic physicians and surgeons (licensed in California by MBC) and COMLEX-USA for osteopathic physicians (licensed in California by the Osteopathic Medical Board of California). According to a 2021 USMLE bulletin, individuals may take the same examination no more than three times within a 12-month period. The fourth and subsequent attempts must be at least 12 months after the first attempt at that examination and at least six months after the most recent attempt at that examination.

Many state medical boards require that all Steps of the USMLE be successfully completed within a certain timeframe. Some states, (for example, Arizona, Colorado, and Florida) do not specify a limit on the number of USMLE attempts. Other states (for example, Arkansas, Georgia, Indiana, and Michigan) specify that an individual must pass all steps of USMLE in three attempts. Others (for example, Iowa, Maine, Massachusetts, Maine, and Missouri) limit three attempts for Step 3.

Beginning July 1, 2021, USMLE limits the total number of times an individual may take the same Step, specifying that an individual is ineligible to take a Step if the examinee has made four or more prior attempts on that Step, including incomplete attempts. This change reduced the total number of attempts an examinee may take per Step from six to four.

MBC Licensing and Out of State Applicants. MBC's licensing program ensures licenses or registrations are only issued to applicants who meet legal and regulatory requirements and who are not precluded from licensure based on past incidents or activities. As of June 30, 2020, MBC has 152,402 physician and surgeon licensees. Over the past four years, MBC received over 29,000 new physician and surgeon applications, issued over 26,000 physician and surgeon licenses, and renewed over 281,338 physician and surgeon licenses.

BPC Section 2135 requires MBC to issue a license to an individual who holds a physician and surgeon license in another state if they meet certain requirements, including "Taking and passing a written examination that is recognized by the board to be equivalent in content to that administered in California", like the USMLE. BPC Section 2135.5 further establishes that an applicant holding a physician license from another state has met MBC's examination requirements if they have held an unrestricted license in another state for at least four years. It does not appear that MBC would also have to apply requirements outlined in BPC Section 2177, the section of law specifying the number of attempts for USMLE Step 3 passage, if the individual has met their own state's requirement for licensure, since they would be applying to MBC based on possession of that

license. Applying to MBC through the pathway in the Act for out-of-state physicians holding an unrestricted license in another state does not appear to contemplate the same USMLE attempt threshold as the Act requires for new physicians applying to become licensed in California, when they do not hold a license anywhere else.

Information provided by the author notes that the requirement to pass USMLE in four or less attempts renders an out-of-state applicant ineligible for licensure pursuant to BPC Section 2135. In justifying the need for this bill, sponsors highlight the requirements contained in BPC Section 2135.5 which allows an out-of-state licensed physician to be eligible based on possession of an unrestricted license issued by another state but only if they meet a high bar of having an unrestricted license for four years, completing three years postgraduate training, and demonstrating certification by an American Board of Medical Specialties member board.

COVID-19 Response and Pathways to Practice. In response to the COVID-19 pandemic, a number of actions were taken by the Governor, including the issuance of numerous executive orders in order to address the immediate crisis. Many executive orders directly impact the state's healthcare workforce. On March 4, 2020, the Governor issued a State of Emergency declaration which immediately authorized the Director of the Emergency Medical Services Authority (EMSA) to allow licensed healthcare professionals from outside of California to practice in California without a California license. Under BPC Section 900, licensed professionals are authorized to practice in California during a state of emergency declaration as long as they are licensed and have been deployed by the Director of EMSA. Following that executive order, on March 30, 2020, the Governor issued Executive Order N-39-20 authorizing the Director of DCA to waive any statutory or regulatory professional licensing relating to healing arts during the duration of the COVID-19 pandemic – including rules relating to examination, education, experience, and training.

CME. All physicians and surgeons licensed by the MBC must complete a minimum of 50 hours of approved CME during each two-year license renewal cycle. This requirement can be met by taking a variety of approved courses. Approved CME consists of courses or programs designated by the American Medical Association or the Institute for Medical Quality/California Medical Association related to patient care, community health or public health, preventive medicine, quality assurance or improvement, risk management, health facility standards, the legal aspects of clinical medicine, bioethics, professional ethics or improvement of the physician-patient relationship. The only specifically required

courses are a one-time, 12-hour training in pain management and the treatment of terminally ill patients, and a requirement that general internists and family physicians whose patient populations are over 25% 65 years of age and older must take at least 20% of their CE in the field of geriatric medicine. Otherwise, physician and surgeons have the discretion to select what courses to take to meet their education requirements, howevera physician may not count educational activities that are not directed toward the practice of medicine, or are directed primarily toward the business aspects of medical toward required CME credit requirements.

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

According to the Senate Appropriations Committee, MBC and Osteopathic Medical Board of California anticipate unknown but likely absorbable costs related to a small increase in applications.

SUPPORT: (Verified 8/27/21)

California Medical Association (source)
American Academy of Pediatrics, California
California Academy of Eye Physicians and Surgeons
California Orthopedic Association
California Radiological Society
California Society for Allergy, Asthma and Immunology
California Society of Dermatology and Dermatologic Surgery
California Society of Pathologists
Choice Medical Group
Humboldt-Del Norte County Medical Society
KPC Healthcare, INC.
Medical Oncology Association of Southern California
Placer Nevada County Medical Society
Riverside County Medical Association
San Bernardino County Medical Society
San Diego County Medical Society
San Francisco Marin Medical Society
San Joaquin Medical Society
Sierra Sacramento Valley Medical Society
Stanislaus Medical Society
Ventura County Medical Society
Western Occupational & Environmental Medical Association

OPPOSITION: (Verified 8/30/21)

None received

ARGUMENTS IN SUPPORT: Supporters write that this bill provides California with expanded tools in addressing the current pandemic and state that there are physicians who would like to practice in California and have passed the USMLE in 5 tries but cannot do so because of California law. According to supporters, this bill take sthe next step by adopting a more liberalized standard for passing the USMLE that many other states have already adopted. Supporters note that this bill will help alleviate California's physician shortage by streamlining the process for physicians moving to our state while maintaining high standards of testing and training.

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, 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, 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, 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: Holden, Reyes

Prepared by: Sarah Mason / B., P. & E.D. /
8/31/21 9:27:37

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

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

THIRD READING

Bill No: AB 362
Author: Quirk-Silva (D)
Amended: 8/26/21 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 7-0, 7/8/21
AYES: Cortese, Caballero, Eggman, McGuire, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates, Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 60-16, 6/1/21 - See last page for vote

SUBJECT: Homeless shelters: safety regulations

SOURCE: Author

DIGEST: This bill establishes a framework for local governments to conduct annual inspections of homeless shelters, including enforcement measures and additional penalties, as specified.

ANALYSIS:

Existing state law, pursuant to the State Housing Law, which governs the building standards and code enforcement of homeless shelters:

1) Requires the building department of every city or county to enforce within its jurisdiction all the provisions published in the State Building Standards Code and the provisions of the State Housing Law pertaining to the construction, alteration, repair, demolition, or arrangement of apartment houses, hotels, or dwellings.

2) Defines a substandard building as any building or portion thereof in which there exists specified conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof, including, but not limited to:
   a) Inadequate sanitation or any nuisance;
   b) Structural hazards and all materials of construction, as specified;
   c) All wiring, plumbing, and mechanical equipment, as specified.
   d) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause;
   e) Any building or portion thereof that is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code;
   f) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.

3) Provides that any officer, employee, or agent of an enforcement agency may enter and inspect any building or premises whenever necessary to secure compliance with, or prevent a violation of, any provision of the State Housing Law, the building standards as specified.

4) Provides that any person who is responsible for a violation under the State Housing Law may be guilty of a misdemeanor, punishable by fine or imprisonment, or both.

5) Provides that any officer, employee, or agent of an enforcement agency may enter and inspect any building or premises whenever necessary to secure compliance with, or prevent a violation of, any provision of the State Housing Law, the building standards as specified, and certain other rules, which the enforcement agency has the power to enforce.

6) Establishes the Homeless Emergency Aid Program (HEAP) under the Homeless Coordinating and Financing Council (HCFC) to provide one-time grant funds to address the immediate homelessness challenges of local cities and counties.

7) Establishes the Homeless Housing Assistance and Prevention Program (HHAPP) under the HCFC to build on HEAP and provide funds to help local jurisdictions combat homelessness.

This bill:

1) Requires a local government that receives a complaint from an occupant of a homeless shelter, or an agent of an occupant, that alleges a homeless shelter is substandard, shall do all of the following:
   a) Inspect the homeless shelter or portion intended for human occupancy that may be substandard.
   b) Identify whether the homeless shelter or portion intended for human occupancy is substandard and include documentation in the inspection report.
   c) Advise the owner or operator of a homeless shelter of each violation and of each action that is required to be taken to remedy the violation. The local government shall schedule a re-inspection to verify correction of the violations.

2) Requires that if the local government determines that a homeless shelter is substandard, the local government shall promptly, but no later than 10 business days after the inspection is completed, issue a notice to correct the violation to the owner or operator of the homeless shelter as follows:
   a) If the local government determines that the violation constitutes an imminent threat to the health and safety of the occupants of the homeless shelter, the notice of violation shall be issued immediately and served on the owner or operator of the homeless shelter.
   b) If the local government determines that deficiencies, violations, or conditions exist that are hazardous, immediately detrimental to life or health, or otherwise render the homeless shelter unfit for human habitation, it may issue an emergency order directly to the owner or operator to take immediate measures to rectify those deficiencies, violations, or conditions.

3) Requires a local government to maintain all records on file of each homeless shelter inspection and made available to the public.

4) Requires a local government to perform an inspection at least as promptly as that local government conducts an inspection in response to a request for final inspection.

5) Prohibits a local government from conducting an inspection in response to a complaint to either of the following:
   a) A complaint that does not allege one or more substantial conditions.
   b) A complaint submitted by a tenant, resident, or occupant, who, within the past 180 days, submitted a complaint about the same property that the chief

building inspector or their designee determined, after inspection, was frivolous or unfounded.

6) Requires a local government to provide free, certified copies of an inspection report and citations issued, if any, to the complaining occupant or their agent. If the inspection reveals a condition potentially affecting multiple occupants, including but not limited to, conditions related to the premises, common areas, or structural features, then the local government shall provide free copies of the inspections report and citations issued to all potentially affected occupants or their agents.

7) Requires the owner or operator of a homeless shelter to be responsible for the correction of any violations under this bill. The owner or operator shall correct each violation within 30 days of receipt of a citation. The local government may grant a 30-day extension to correct a violation.

8) Provides that this bill shall not be construed to impose a mandatory duty on or affect an immunity applicable to a city or county or its employees.

9) Provides that in addition to existing penalties under the State Housing Law, an owner or operator who fails to meet the timelines to correct a violation under this bill may be liable for a civil penalty in an amount determined by the local government for each violation or for each day of a continuing violation.

10) Prohibits the local government from awarding or distributing state funding to the owner or operator of a homeless shelter for purposes of operating a shelter if the local government determines that any of the following exist:
    a) The owner or operator fails to correct a violation within the time periods specified under this bill.
    b) The owner or operator has failed to correct violations in a timely manner on multiple occasions.
    c) The owner or operator has been cited for a violation that is an imminent threat to the health and safety of the occupants of the homeless shelter and the owner or operator fails to make sufficient action to correct the violation or prevent future similar violations.

11) Provides that a local government shall not be required to submit a report pursuant to 10) above, if there are no outstanding violations or any violations corrected during the applicable period.

12) Requires a local government to submit a report annually to the Department of Housing and Community Development (HCD) and the Business Consumer

Services and Housing Agency (BCSH) by April 1 of each year that includes all of the following information:

a) Any pending uncorrected violations determined by the local government.
b) Any determination by a local government that conditions exist or existed that make or made the homeless shelter dangerous, hazardous, imminently detrimental to life or health, or otherwise render the homeless shelter unfit for human habitation.
c) A list of any emergency orders issued by this bill.
d) A list of any owners or operators who received three or more violations within any six-month period.
e) Any corrected violations from the prior year.

13) Requires any local government that applies for state funding to support the ongoing operations of homeless shelters to disclose to the state agency that administers the state funding the status of any unresolved violations and the names of the homeless shelter owner or operators.

14) Authorizes HCD or BCSH to deem an owner or operator of a shelter ineligible for state funding for shelter operations, pursuant to the information provided in the report under 12) above.

Background

Based on the 2020 point in time count, California has the largest homeless population in the nation with 161,548 people experiencing homelessness on any given night. Many of those people, 113,660, are unsheltered, meaning they are living outdoors and not in temporary shelters. From 2018 to 2020, through two programs – HEAP and HHAPP – the state invested $1.45 billion in flexible funding that can be used for shelters, navigation centers, rental assistance, permanent supportive housing, and services. The HCFC administers the HEAP and HHAPP programs and is responsible for collecting data from Continuums of Care (CoCs), cities, and counties that receive funding on the use of funds.

Additionally, in response to COVID-19, the federal government provided funding to immediately house people experiencing homelessness and are at risk of contracting COVID-19. A state program created in 2020, Project Roomkey, reimbursed cities and counties from Federal Emergency Management Agency funds to temporarily house this population, and another new program, Project Homekey, provided funding to purchase hotels and motels to permanently house this population. In March of 2020, the state received $150 million in federal Coronavirus Relief Funds (CRF) that was used to secure hotels, motels, and

acquire trailers for people experiencing homelessness and at the greatest risk of contracting COVID-19.

The 2020 Budget allocated $750 from state's direct allocation of CRF to create Project Homekey to purchase hotels, motels, residential care facilities, and other housing that can be quickly converted and rehabilitated to provide permanent housing for persons experiencing homelessness, and who are also at risk of COVID-19. As of December 2020, HCD had awarded $846 million to 51 local agencies for 94 projects, which housed 6,000 people experiencing homelessness.

The 2021-2022 budget invested an additional $2 billion over the next two years for housing and services for people experiencing homelessness in the form of flexible funding to local jurisdictions.

Comments

1) *Author's Statement*. "All Californians deserve a place to call home, the State of California is committed to increasing access to safe, affordable housing with appropriate supportive services to help resolve homelessness. The state is also committed to protecting the health and safety of people living in homeless shelters, which often is due to California's shortage of affordable housing. The need for enforceable health and safety standards for homeless shelters is particularly urgent given the extreme vulnerability of homeless shelter residents, many of whom are older adults, people with disabilities, and people with serious physical and mental health conditions."

2) *Uninhabitable Shelters*. A year-long study by the American Civil Liberties Union (ACLU) of three shelters in Orange County uncovered unsanitary and unsafe conditions. The report is based on first-person visits and more than 70 interviews with residents, staff members, and shelter volunteers at three facilities in Anaheim. The report found that residents were exposed to rain, flooding, and raw sewage; unsanitary shower and restroom facilities; a lack of soap and other cleaning products; infestations of rodents, maggots, and insects; and a lack of temperature control.

   The ACLU recently sued Orange County on behalf of 11 shelter residents, alleging, among other things, rampant rodent and bedbug infestations, broken toilets and showers, and extreme temperatures at the shelters.

3) *State Housing Law*. The State Housing Law governs building standards for all new construction in California and was established to assure the availability of affordable housing and uniform statewide code enforcement to protect the

health, safety, and general welfare of the public and occupants of housing and accessory buildings, including homeless shelters. It authorizes local governments to perform inspections and identify any building code or health and safety violations, which may result in a fine or imprisonment.

4) *Code enforcement.* Existing law does not require homeless shelters to be inspected on a regular basis. Under existing law, if a local code enforcement agency received a complaint about a shelter they could inspect; however, residents of a shelter would be unlikely to complain due to fears of being evicted from the shelter. This bill would require a local government to respond timely to any legitimate complaints it receives related to substandard homeless shelters. An owner or operator of a homeless shelter must correct the violation or violations within a specified period of time; failure to do could result in additional civil penalties at the discretion of the local government. Further, any owner or operator of a homeless shelter that fails to correct a violation, had multiple violations within a six-month period, or was determined to be unfit for human habitation may be deemed ineligible for state funding for shelter operations. This bill also requires local governments to submit an annual report to HCD and BCSH identifying violations of the state housing law, which may be used to deem a shelter operator ineligible for state funds.

5) *Appropriations amendments.* The author proposed amendments in the Senate Appropriations Committee that do the following:
   a) Removes the requirement for a local government to conduct at least one announced or unannounced inspection of each homeless shelter each year.
   b) Requires a local government to maintain all records on file of each homeless shelter inspection, and make those records available to the public for inspection.
   c) Clarifies that the requirements in this bill shall not be construed to impose a mandatory duty on or affect an immunity applicable to a city or county or its employees.
   d) Provides that a local government shall not be required to submit a report to specified state agencies if there are no outstanding violations or any violations corrected during the applicable period.

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

According to the Senate Appropriations Committee:

- Minor and absorbable costs for HCD and BCSH to compile inspection and violation information reported by local agencies and potentially render a shelter

owner or operator ineligible for future allocations of state homelessness funding. (General Fund)

- Unknown, potentially reimbursable local costs for cities and counties to provide free copies of inspection reports and citations, and to establish systems for the collection and annual reporting of specified data to state entities. These costs could be reimbursable from the state General Fund, subject to a determination by the Commission on State Mandates. Appropriations Committee staff assumes other mandated duties related to establishing and administering a homeless shelter inspection program would not be state-reimbursable because local agencies have the authority to recover costs through inspection fees, civil charges, fines, and liens.

SUPPORT: (Verified 8/26/21)

ACLU California Action
Aids Healthcare Foundation
Corporation for Supportive Housing
Housing California
Stronger Women United
Three individuals

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 60-16, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Cunningham, Megan Dahle, Davies, Flora, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Choi, Fong, Mayes

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/31/21 9:27:38

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

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

THIRD READING

Bill No: AB 364
Author: Rodriguez (D), et al.
Introduced: 2/1/21
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/28/21
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 9-2, 7/13/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Skinner, Stern, Wieckowski
NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 53-19, 6/2/21 - See last page for vote

SUBJECT: Foreign labor contractor registration: agricultural workers

SOURCE: Alameda County District Attorney, Nancy E. O'Malley
Coalition to Abolish Slavery & Trafficking
San Diego County District Attorney, Summer Stephan

DIGEST: This bill requires foreign labor contractors (except those explicitly exempted), including those recruiting farmworkers abroad, to register with the California Labor Commissioner and follow existing requirements for other foreign labor contractors, including pay a fee, post a bond, and adhere to certain standards designed to prevent exploitation.

ANALYSIS:

Existing law:

1) Establishes provisions that regulate *foreign labor contractors* under a program administered by the Labor Commissioner (LC), which prohibits the registration of a person to act as a foreign labor contractor until specified criteria is met. Among other things, foreign labor contractor provisions:

   a) Require any person acting as a foreign labor contractor to register with the LC, as specified, and to pay a registration fee to be established by the LC and to post a surety bond based upon the foreign contractor's gross receipts.
   b) Require a foreign labor contractor to disclose specified information in writing to each foreign worker, in that worker's primary language, on their employment and rights.
   c) Prohibit a foreign labor contractor from engaging in certain activities, including making false or misleading claims about the terms and conditions of work, recruiting minors, intimidating or in any manner discriminating against a foreign worker or their family in retaliation for the foreign worker's exercising a legal right under the foreign labor contractor law, or promising workers that they will be offered an opportunity for citizenship or legal permanent residence in the United States.
   d) Subject any person who violates these provisions to civil penalties and civil actions for damages or injunctive relief. (Business & Professions Code (BPC) §9998-9998.11)

2) Defines, for purposes of the registration program described above, the following terms:
   a) "Foreign labor contractor" means any person who performs "foreign labor contracting activity" wholly outside of the United States, but not including any local, state, or federal government entity.
   b) "Foreign worker" means any person seeking employment who is not a United States citizen or permanent resident but who is authorized by the federal government to work in the United States on a temporary basis.
   c) “Foreign labor contractor” does not include a person licensed by the LC as a talent agency, as specified, or a person who obtained and maintains full written designation from the U.S. Department of State under Part 62 of Title 22 of the Code of Federal Regulations (J-1 Visa). (BPC §9998.1)

3) Specifies that the foreign labor contractor provisions *apply only to “nonagricultural workers” as defined by Section 1101(a)(15)(H)(ii)(b)* of Title

8 of the federal Immigration and Nationality Act (H-2B visas). It shall *not apply to any person duly licensed as a "farm labor contractor"* as that term is defined in Section 1682 of the Labor Code nor shall it apply to any person exempt from the licensing requirement in Section 1682.5 of the Labor Code or to any employer employing agricultural workers as defined by Section 1101(a)(15)(H)(ii)(a) of Title 8 of the federal Immigration and Nationality Act (H-2A visas). (BPC §9998)

4) Establishes provisions that regulate *farm labor contractors* under a program administered by the LC, which prohibits the registration of a person to act as a farm labor contractor until specified criteria is met. Among other things, these provisions:
   a) Define "farm labor contractors," among other things, as any person who, for a fee, employs workers to render services in connection with the production of any farm products to, for, or under the direction of a third party, or who recruits, solicits, supplies, or hires workers on behalf of an agricultural employer.
   b) Prohibit a person from acting as a farm labor contractor without first meeting licensing, fee, and bonding requirements established by the LC.
   c) Permit the LC to revoke, suspend, or refuse to renew a license if the farm labor contractor fails to comply with specified state or federal laws.
   d) Require every licensed farm labor contractor to, among other things, make specified disclosures to employers and workers, maintain specified records, promptly pay all moneys owed to workers, and conspicuously post information related to workers' rights. (Labor Code §1695-1696)

5) Authorizes, under the federal Immigration and Naturalization Act, the lawful admission of temporary foreign workers who have no intention of abandoning their country of origin and distinguishes between foreign temporary workers (H-2A workers) who perform agricultural labor or services of a temporary or seasonal nature, and foreign temporary workers who perform nonagricultural labor or services (H-2B workers) of a temporary or seasonal nature. (8 U.S.C. 1101 (a) (15) (H) (i)-(ii).)

This bill:

1) Extends the foreign labor contractor provisions in existing law to all contractors of foreign labor, including farm labor contractors who contract for foreign labor, by deleting a section that expressly limits the law's application to "nonagricultural" workers and that expressly exempts farm labor contractors.

2) Extends protections and requirements to all foreign labor visa contractors by deleting the reference in law specifying that the foreign labor contractor provisions apply only to "nonagricultural workers" as defined by Section 1101(a)(15)(H)(ii)(b) of Title 8 of the federal Immigration and Nationality Act, which are H-2B visas.

Background

Foreign Labor Visas. Most employment based nonimmigrant visas require employer sponsorship where the employer files for a specific visa with the U.S. Citizenship and Immigration Services (USCIS) on behalf of the prospective employee. In some circumstances, U.S. Department of Labor (DOL) approval is also required to demonstrate that the foreign national will not displace U.S. workers. The following are some of the most common visa classifications under which a foreign national may temporarily work or train in the United Sates:

- H-1B–Specialty occupations in fields requiring highly specialized knowledge, specified fashion models, or certain services of an exceptional nature, as specified.
- H-2A–Temporary agricultural workers.
- H-2B–Temporary nonagricultural workers performing other services or labor.
- H-3–Trainees or special education exchange visitors.
- I–Representatives of foreign media.
- L-1A–Intra-company transferees (executives, managers).
- L-1B–Intra-company transferees (employees with specialized knowledge).
- O-1–Individuals with extraordinary ability or achievement in the sciences, arts, education, business, or athletics.
- P-3–Foreign nationals who perform, teach, or coach a program that is culturally unique.
- R-1– Temporary religious workers.

Legislative history on foreign labor contractors statute and this bill. California's foreign labor contractor laws were enacted in 1988 to regulate individuals who, for compensation, recruited or solicited persons abroad to work as temporary guest workers in the United States. Prior to 2014, these provisions included minimal requirements on anyone operating as a "foreign labor contractor" in the state. In 2013, SB 516 (Steinberg) was introduced to make several changes to these provisions aimed at strengthening the law and provide more protections to foreign workers. SB 516 was vetoed but reintroduced and signed into law the next year with SB 477 (Steinberg). Among other things, SB 477 required foreign labor contractors to register with the LC, which included payment of a licensing fee and

the posting of a surety bond; required the foreign labor contractor to make certain disclosures to workers and employers; imposed penalties on any employer who used an unregistered foreign labor contractor; expanded the remedies available to foreign workers aggrieved by a violation of the law; and extended the prohibition against retaliation to include acts of retaliation against a worker's family members.

SB 477 expressly exempted two categories of foreign workers: foreign workers recruited by talent agencies, because talent agencies were already licensed and subject to protective regulations; and holders of J-1 visas that authorize persons participating in an educational or cultural program to work while they are in the United States. The changes enacted with SB 477 were to various codes within chapter 21.5 of the Business and Professions Code including Section 9998.1, which amended the definitions of "foreign labor contractor," "foreign labor contracting activity," and "foreign worker" as noted under existing law above.

The author of SB 477, Sacramento Mayor Darrell Steinberg, in a letter in support of this bill, writes, "I confirm that the legislative intent of SB 477 was to apply to all temporary foreign workers entering California through the foreign labor recruitment process via a wide range of visa categories including H2A workers. The original bill was never intended to be limited to coverage of just H2B workers." Although that may have been the intent of the author and sponsors, the changes made to the foreign labor contractor provisions didn't amend section 9998 which limited the chapter's applicability to "nonagricultural workers" as defined by Section 1101(a)(15)(H)(ii)(b) of Title 8 of the federal Immigration and Nationality Act, *which are H-2B visas*. The chapter also expressly stated that it did not apply to a "farm labor contractor" or to any employer of H-2A agricultural workers.

This bill strikes Section 9998 from the BPC deleting the limitations noted above and applying foreign labor contractor provisions to all visa categories, except those explicitly exempted, AND to farm labor contractors engaging in foreign labor contracting. *Please see policy committee analysis for a more in depth comparison of provisions and requirements for farm labor contractors and foreign labor contractors.*

Comments

Need for this bill? According to the author, "In 2014, California passed SB 477 (Steinberg, Chapter 711, Statutes of 2004) which provided comprehensive protections to temporary workers coming to California. A drafting error resulted in the bill being interpreted to cover only H2-B workers, limiting coverage to only 5,000 of the almost 200,000 temporary workers who come to California annually,

all of whom were originally intended to be protected. During COVID-19 and its aftermath, AB 364 would ensure *all* of these essential workers, who are often vulnerable to labor exploitation and human trafficking because of the terms and conditions of their temporary work visas, have comprehensive protections. The protections in SB 477 are completely separate from current provisions in California law that address farm labor contracting as they cover activities exclusively involving international labor recruitment. AB 364 is beneficial to both workers and businesses in California."

Related/Prior Legislation

AB 1913 (Kalra, 2018), similar to this bill, would have added foreign labor contractors who recruit agricultural workers to coverage under the foreign labor contractor registration program. AB 1913 failed passage on the Assembly Floor.

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

According to the Senate Appropriations Committee, the Department of Industrial Relations indicates that it would incur first-year costs of $670,000, and $611,000 annually thereafter, to implement the provisions of the bill (Labor Enforcement and Compliance Fund). Costs would offset to some extent by new fee revenue.

SUPPORT: (Verified 8/26/21)

Alameda County District Attorney, Nancy E. O'Malley (co-source)
Coalition to Abolish Slavery & Trafficking (co-source)
San Diego County District Attorney, Summer Stephan (co-source)
ACLU of California
Alliance to End Slavery and Trafficking
Bet Tzedek Legal Services
California Commission on the Status of Women and Girls
Centro De Los Derechos Del Migrante
City of Los Angeles
City of West Hollywood
CSA San Diego County
Democratic Party of the San Fernando Valley
Dolores Street Community Services
Economic Policy Institute Policy Center
Equal Rights Advocates
Free to Thrive
Freedom United
Heal Trafficking

Hewlett Packard Enterprise
Justice in Motion
Legal Aid of Marin
Los Angeles Center for Law and Justice
Los Angeles County District Attorney's Office
Mayor Darrell Steinberg, City of Sacramento
Mayor Eric Garcetti, City of Los Angeles
Monterey Peninsula Unified School District
North County Lifeline
Pilipino Workers Center
Richards Grassfed Beef
Ruby's Place
Santa Barbara Women's Political Committee
SEIU California
StrengthUnited, California State University, Northridge
Sustainable Food Policy Alliance
Verite
Verity, Compassion, Safety, Support
Waymakers
Womankind

OPPOSITION: (Verified 8/26/21)

African-American Farmers of California
Agricultural Council of California
California Association of Winegrape Growers
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners & Growers Association
California Farm Bureau Federation
California Fresh Fruit Association
Family Winemakers of California
Farwest Equipment Dealers Association
Nisei Farmers League
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association

ARGUMENTS IN SUPPORT: The Coalition to Abolish Slavery & Trafficking, co-sponsor, writes, "The Agriculture Community's claims that regulations under SB 477 are duplicative or unnecessary are simply in error. Nothing in the materials

they have cited or submitted provide any support for this contention. Moreover, they fail to acknowledge, much less discuss, any of the substantive provisions of SB 477 that provide protections for workers in addition to those included in the existing regulatory mandate of the oversight organizations they cite. Uniformity of regulation across all temporary work visa categories is essential."

ARGUMENTS IN OPPOSITION: A coalition of agricultural employers are in opposition and argue that, "The H-2A visa program was NOT overlooked during the discussion and negotiations of SB 477 (Steinberg) in 2014 which created the foreign labor contracting registration program. H-2A visas were simply not intended to be covered by the program because of the lack of necessity to do so because the H-2A visa program is *already regulated by a restrictive application and enforcement program at the federal level* and California has a specific farm labor contractor (FLC) licensing program that is managed by the California Labor Commissioner's Office."

ASSEMBLY FLOOR: 53-19, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Lee, 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, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Bigelow, Daly, Frazier, Grayson, Levine, Mayes, Villapudua

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/28/21 11:09:18

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

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

THIRD READING

Bill No: AB 367
Author: Cristina Garcia (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 6/23/21
AYES: Leyva, Ochoa Bogh, Cortese, Glazer, McGuire, Pan
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 77-0, 6/1/21 - See last page for vote

SUBJECT: Menstrual products

SOURCE: Alliance for Girls
American Civil Liberties Union of California
Black Women for Wellness Action Project
California Association of Student Councils
California Latinas for Reproductive Justice
Free the Period
IGNITE
Period - The Menstrual Movement

DIGEST: This bill, the Menstrual Equity for All Act of 2021, (1) requires, beginning with the 2022-23 school year, all public schools maintaining any combination of classes from grades 6 to 12, inclusive, to stock the school's restrooms at all times with an adequate supply of menstrual products in all women's restrooms and all-gender restrooms, and in at least one men's restroom; and (2) requires the California State University (CSU) and each community college district (CCD), and encourages the University of California (UC), independent institutions of higher education, and private postsecondary educational institutions,

to stock an adequate supply of menstrual products at no fewer than one designated and accessible central location on each campus.

ANALYSIS:

Existing law:

1) Requires public and private schools enrolling students from Kindergarten through 12th grade to ensure that every restroom is maintained and cleaned regularly, fully operational and stocked at all times with toilet paper, soap and paper towels or functional hand dryers. (Education Code § 35292.5)

2) Requires that a pupil be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records. (EC § 221.5)

3) Requires a public school maintaining any combination of grades 6 to grade 12, inclusive, that meets the 40-percent pupil poverty threshold required to operate a federal Title I schoolwide program, to stock at least 50 percent of the school's restrooms with feminine hygiene products all times and prohibits those schools from charging for any menstrual products provided to pupils, including feminine hygiene products. (EC § 35292.6)

4) Requires a California Community College (CCC) campus that has shower facilities for student use to grant access, as specified, to those facilities to any homeless student who is enrolled in coursework, has paid enrollment fees, and is in good standing with the community college district. (EC § 76011)

5) Requires the CCC and the CSU, and encourages the UC, to provide reasonable accommodations on their respective campuses for a lactating students to express breast milk, breast-feed an infant child, or address other needs related to breast-feeding, and requires any new building or renovation of an existing building regularly used by students, to provide reasonable accommodations including a sink for lactating students. (EC § 66271.9)

6) Requires any business establishment, place of public accommodation, or state or local government to identify all single – user facilities as all-gender toilet facilities and for the signage to comply with Title 24 of the California Code of Regulations. (Health & Safety Code Section § 118600)

7) Exempts consumers from being charged a sales tax on the purchase of menstrual hygiene products until July 1, 2023. (Revenue & Taxation Code § 6363.10)

This bill:

1) Requires, on or before the start of the 2022–23 school year, a public school, including a school operated by a school district, county office of education, or charter school, maintaining any combination of classes from grades 6 to 12, inclusive, to stock the school's restrooms at all times with an adequate supply of menstrual products (available and accessible, free of cost) in all women's restrooms and all-gender restrooms, and in at least one men's restroom.

2) Prohibits a public school from charging for any menstrual products provided to pupils.

3) Requires a public school to post a notice regarding the requirements of this bill in a prominent and conspicuous location in every restroom required to stock menstrual products.

4) Requires the notice to include the text of these provisions and contact information, including an email address and telephone number, for a designated individual responsible for maintaining the requisite supply of menstrual products.

5) Defines "menstrual products" to mean menstrual pads and tampons for use in connection with the menstrual cycle.

6) Makes the provisions above operative on July 1, 2022.

7) Clarifies the existing requirement for certain schools to stock at least 50 percent of the restrooms with menstrual products, to ensure those products are available and accessible, free of cost.

8) Extends the existing requirement on public schools to include a charter school and a school operated by a county superintendent of schools, and replaces references to feminine hygiene products with references to menstrual products.

9) Requires the CSU and each CCD to stock an adequate supply of menstrual products, available and accessible, at no cost, at no fewer than one designated and accessible central location on each campus.

10) Requires a location's accessibility to be determined by considering at least all of the following factors:

    a) Hours of operation, relative to hours that students are on campus.

    b) Proximity to high-traffic areas on campus.

    c) Accessibility by students of all genders and regardless of physical ability.

    d) Privacy, including whether accessing products would require interaction with staff or other students.

    e) Safety.

11) Authorizes locations to include student centers, libraries, wellness or health centers, pantries, and study rooms.

12) Requires the CSU and each CCD to post a notice regarding these requirements in a prominent and conspicuous location in all women's restrooms and all-gender restrooms and in at least one men's restroom.

13) Encourages the Regents of the UC, independent institutions of higher education, and private postsecondary educational institutions to stock an adequate supply of menstrual products at no fewer than one designated and accessible central location on each campus.

14) Encourages, further, the Regents of the UC, independent institutions of higher education, private postsecondary educational institutions, if they implement these provisions, to post a notice regarding these provisions in a prominent and conspicuous location in all women's restrooms and all-gender restrooms and in at least one men's restroom.

15) Provides that a campus may provide more than one location where people may access menstrual products.

16) Defines, for purposes of all of these provisions, "menstrual products" mean to menstrual pads and tampons for use in connection with the menstrual cycle.

17) States that it is the intent of the Legislature that this bill provides for the health, dignity, and safety of menstruating students at every socioeconomic level, normalize menstruation among all genders, and foster gender competency in California schools, colleges, and universities.

Comments

Need for the bill. According to the author, "Having convenient and free access to menstrual products will help students in our schools, similar to the way that toilet paper is provided to respond to routine biological functions. By providing menstrual products in schools, California helps ensure its students have equal access to education and are empowered to reach their full potential, irrespective of their gender or economic status."

Adolescent experience relating to menstruation and school. A 2019 Harris Interactive poll of 2,000 teens aged 13 to 19 in the United States commissioned by the nonprofit organization PERIOD and a menstrual products company found:

1) Two-thirds of teens have felt stress due to lack of access to period products.

2) 20% have struggled to afford period products or were not able to purchase them at all.

3) 61% have worn a tampon or pad for more than four hours because they did not have enough access to period products (which puts them at risk of infection and toxic shock syndrome (TSS)).

4) 84% have either missed class time or know someone who missed class time because they did not have access to period products.

5) 25% have missed class because of lack of access to period products.

6) 83% think lack of access to period products is an issue that is not talked about enough.

7) 66% do not want to be at school when they are on their period.

8) 69% feel embarrassed when they have to bring period products to the bathroom.

9) The majority (51%) of students feel like their school does not care about them if they do not provide free period products in their bathrooms.

10) 51% have missed at least part of a class or class period due to menstruation symptoms such as cramps.

Current accessibility of menstrual products on campus. As noted by the Assembly Higher Education Committee, "For the last several years the Legislature, in partnership with public institutions of higher education, has dedicated resources to

alleviate hunger and homelessness by securing access for college students to basic needs supports. Throughout the years the definition of basic needs has evolved beyond food and housing to include other basic needs supports such as technology and feminine hygiene products. In January 2021, BMC Women's Health published a peer-reviewed study regarding the impact of period poverty and mental health implications among college-aged women in the United States. This report found 14.2% of college – aged women have experienced period poverty in the past year. To combat period poverty, the CCC, the CSU, and the UC along with student organizations on campuses have worked to provide free menstrual products on campus. In 2016, the Student Senate of the California Community Colleges (SSCCC) issued a resolution in which the lead organization for student voices on campus encouraged the CCC to implement personal hygiene products dispensers to 'secure the necessities of all students with needs of basic personnel health items.' Based on data collected prior to the COVID – 19 pandemic, the CCC Chancellor's office indicated a number of community colleges offer free feminine hygiene products as part of the campus food pantries or the student health centers. CSU campuses currently provide free menstrual products on all student health centers. The menstrual products are also available in campus food pantries and Basic Needs Centers, but the availability may vary as these are stocked by donations the campus receives from community partners. For the UC system each campus has a different method of providing free menstrual products to students. For example, UC Davis and UC Irvine provide free menstrual products in half of the restrooms on campus."

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

According to the Senate Appropriations Committee:

1) This bill could result in one-time Proposition 98 General Fund costs of approximately $2 million for school districts to install or modify menstrual product dispensers, and additional ongoing Proposition 98 General Fund costs of about $1.3 million each year to provide free menstrual products. School districts may also incur additional, unknown costs to comply with this bill's restroom noticing requirements. These costs are likely to be deemed reimbursable by the Commission on State Mandates.

2) The Chancellor's Office estimates Proposition 98 General Fund costs of between $57,500 and $115,000 annually to provide free menstrual products at a centralized location on the 115 community college campuses. There could also be additional one-time costs, likely to be minor, for campuses to comply with this bill's noticing requirements.

3) The UC estimates General Fund costs in the low tens of thousands of dollars annually to comply with this bill's requirements, while the CSU indicates General Fund costs of between $750,000 and $800,000 each year to provide additional menstrual products for its health centers.

SUPPORT: (Verified 8/27/21)

Alliance for Girls (co-source)
American Civil Liberties Union of California (co-source)
Black Women for Wellness Action Project (co-source)
California Association of Student Councils (co-source)
California Latinas for Reproductive Justice (co-source)
Free the Period (co-source)
IGNITE (co-source)
Period - The Menstrual Movement (co-source)
Advocates for Youth
American Association of University Women - California
American College of Obstetricians and Gynecologists District IX
Anti-Defamation League
California Alternative Payment Program Association
California Commission on the Status of Women and Girls
California Faculty Association
California School Boards Association
California School Nurses Organization
California State PTA
California State Student Association
California Teachers Association
California Women's Law Center
Child Care Law Center
Citizens for Choice
Conference of California Bar Associations
County of Santa Clara
Equal Rights Advocates
Feminist Majority Foundation
Legal Aid at Work
NARAL Pro-Choice California
National Association of Social Workers, California Chapter
Planned Parenthood Affiliates of California
Religious Coalition for Reproductive Choice California
San Francisco Board of Supervisors
Student Senate for California Community Colleges

Training in Early Abortion for Comprehensive Healthcare
University of California Student Association
Voices for Progress Education Fund
Women's Foundation California

OPPOSITION: (Verified 8/27/21)

None received

ASSEMBLY FLOOR: 77-0, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, 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, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Voepel

Prepared by: Brandon Darnell / ED. / (916) 651-4105
8/31/21 9:27:39

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

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

THIRD READING

Bill No: AB 379
Author: Gallagher (R)
Amended: 8/26/21 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 7/13/21
AYES: Stern, Jones, Allen, Eggman, Hertzberg, Hueso, Laird
NO VOTE RECORDED: Grove, Limón

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 74-0, 5/10/21 - See last page for vote

SUBJECT: Wildlife conservation: conservation lands

SOURCE: Author

DIGEST: This bill authorizes the Department of Fish and Wildlife (DFW) and the Wildlife Conservation Board (WCB) to enter into agreements with and make grants or loans to California Native American tribes for various purposes related to fish and wildlife conservation.

ANALYSIS:

Existing law:

1) Enacts the Wildlife Conservation Law of 1947, which establishes the WCB in DFW. Among other things, the WCB is required to investigate, study, and determine the areas in the state that are most suitable for certain wildlife-related purposes.

2) Authorizes DFW, with the approval of the WCB, to enter into agreements with any other department or agency of this state, any local agency, or nonprofit organization, to provide for the construction, management, or maintenance of the facilities authorized by the WCB. Existing law further authorizes such

entities to construct, manage, or maintain those facilities pursuant to the agreement.

3) Authorizes the WCB to make grants or loans to nonprofit organizations, local governmental agencies, federal agencies, and state agencies for various purposes in connection with fish and wildlife habitats.

4) Defines "California Native American tribe" as a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission.

This bill:

1) Authorizes the WCB to award grants or loans to California Native American tribes for restoration or protection of fish and wildlife resources and for the development of compatible public access facilities on preserved lands.

2) Authorizes DFW, with approval from the WCB, to enter into agreements with any California Native American tribe, to provide for the construction, management, or maintenance of the facilities authorized by the board.

Comments

Senate Appropriations Committee amendments deleted the contentious provisions of this bill. Previously, opponents objected to provisions that authorized the sale of conservation lands by the WCB, the Department of Parks and Recreation or a state conservancy to a California Native American tribe for purposes of conservation management, public access, historic preservation, protection or biological enhancement of conservation lands. The concern was that should the tribe bring the lands into their tribal trust, the tribes would no longer be bound to manage the lands for the purposes of conservation management etc. The amendments in Appropriations deleted those provisions.

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

According to the Senate Appropriations Committee, potential unknown but likely minor cost pressures (various funds) due to expanded DFW and WCB grant and loan eligibility.

SUPPORT: (Verified 8/27/21)

Butte Environmental Council
California Alliance With Family Farmers

California Nations Indian Gaming Association
California Native Plant Society
Defenders of Wildlife
Dry Creek Rancheria Band of Pomo Indians
Federated Indians of Graton Rancheria
Habematolel Pomo of Upper Lake
Karuk Tribe
Midpeninsula Regional Open Space District
Pala Band of Mission Indians
Santa Rosa Rancheria Tachi Yokut Tribe
Sustainable Conservation
United Auburn Indian Community

OPPOSITION: (Verified 8/30/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "Native American Tribes have a history and culture which is deeply connected to the land which their tribes occupy. It is time for California to take action and reflect this connection by allowing tribes, with their rich traditions of ecological knowledge, to oversee wildlife conservation land."

ASSEMBLY FLOOR: 74-0, 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, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Chen, Eduardo Garcia, Gray, Patterson

Prepared by: Dennis O'Connor / N.R. & W. / (916) 651-4116
8/31/21 9:27:40

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

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

THIRD READING

Bill No: AB 391
Author: Villapudua (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE AGRICULTURE COMMITTEE: 4-0, 6/17/21
AYES: Borgeas, Caballero, Eggman, Glazer
NO VOTE RECORDED: Hurtado

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: Pollinator habitat conservation: funding

SOURCE: Almond Alliance of California

DIGEST: This bill allocates $5 million from the General Fund to the California Department of Food and Agriculture (CDFA) to partner with others to provide technical assistance, outreach, and provide grants to incentivize growers to participate in state and federal conservation programs that integrate pollinator habitat and forage on working lands.

ANALYSIS:

Existing law:

1) Establishes the Healthy Pollinators Working Group. In 2013, CDFA, in partnership with stakeholders from the bee industry, formed the Healthy Pollinators Working Group to create a shared understanding of key issues, challenges, and opportunities surrounding pollinator health in California.

2) Establishes the California Apiary Board, which advises the secretary of CDFA on all matters related to the beekeeping industry.

3) Tasks the state to conserve at least 30% of California's land and coastal waters by 2030 *(Governor's Executive Order N-82-20).*

This bill:

1) Allocates $5 million from the General Fund to California Department of Food and Agriculture to incentivize growers' participation in state and federal conservation programs. This is a one-time allocation.

2) Requires CDFA to partner with the University of California Extension Services, California resource conservation districts and the United States Department of Agriculture Natural Resources Conservation Service to deliver technical assistance, outreach, and provide grants to encourage growers to participate in state and federal conservation programs that integrate pollinator habitat and forage on working lands.

3) Authorizes CDFA to use the allocated moneys to pay for all reasonable administrative and implementation costs relating to the bill.

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

According to the Senate Appropriations Committee, this bill will only allocate the $5 million upon appropriation by the Legislature, resulting in a General Fund cost pressure of that amount. Additionally, CDFA indicates that it would incur annual administrative costs of $160,000.

SUPPORT: (Verified 8/26/21)

Almond Alliance of California (source)
Agricultural Council of California
American Farmland Trust
American Pistachio Growers
California Association of Pest Control Advisers
California Association of Winegrape Growers
California Association of Zoos and Aquariums
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners & Growers Association
California Farm Bureau Federation
California Fresh Fruit Association
California Pear Growers Association
California Seed Association
California State Beekeepers Association

California Strawberry Commission
California Walnut Commission
East Bay Regional Park District
General Mills, Inc.
Grower-Shipper Association of Central California
Solano County Board of Supervisors
Western Agricultural Processors Association
Western Growers Association
Western Plant Health Association

OPPOSITION: (Verified 8/26/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "Numerous states, federal, agricultural, and conservation organizations have identified the opportunity and developed resources to expand pollinator habitat and forage on farms and ranches. Scaling these individual efforts requires bringing together critical elements of public and private investment. Also, in line in with the Governor's Executive Order N-82-20 to conserve 30% of habitats by 2030, to support biodiversity and boost climate resilience, the state has an incentive to partner with farmers and ranchers to leverage California's working lands in this effort while retaining the economic prosperity of the nation's leading agricultural economy."

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: Reichel Everhart / AGRI. / (916) 651-1508
8/31/21 9:27:41

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

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

THIRD READING

Bill No: AB 392
Author: Nazarian (D)
Amended: 4/6/21 in Assembly
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 7/12/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

ASSEMBLY FLOOR: 73-0, 5/6/21 - See last page for vote

SUBJECT: Clinical laboratories: total protein test: authorization

SOURCE: The Plasma Protein Therapeutics Association

DIGEST: This bill requires the Department of Public Health (CDPH) to determine that a person who performs a total protein test using a digital refractometer do so in accordance with standardized procedures approved by—rather than developed and approved by—the licensed plasma collection center's supervising physician and surgeon or licensed clinical laboratory director.

ANALYSIS:

Existing law:

1) Provides for the licensure, registration, and regulation of clinical laboratories and various clinical laboratory personnel by the CDPH, with specified exceptions. (Business and Professions Code (BPC) § 1200-1327)

2) Defines, for purposes of state regulation of clinical laboratories, the following:

   a) "CLIA" means the federal Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. Sec. 263a; P.L. 100-578) and the regulations adopted thereunder by the federal Health Care Financing Administration and effective on January 1, 1994, or any later date, when adopted in California pursuant to subdivision (b) of Section 1208. (BPC § 1202.5(a))

b) "Clinical laboratory" meant any place used, or any establishment or institution organized or operated, for the performance of clinical laboratory tests or examinations or the practical application of the clinical laboratory sciences. That application may include any means that applies the clinical laboratory sciences. (BPC § 1206(a)(8))

3) Authorizes a person to perform a total protein test using a digital refractometer in a licensed plasma collection center in this state, as specified. (BPC § 1246.7(a))

4) Specifies that the person may only perform the test, if CDPH, as part of its routine, fee-supported inspection of the licensed plasma collection center, including its review of personnel reports for licensed and unlicensed personnel and job descriptions of all center positions for a licensed plasma collection center, determines that the following conditions are met:

a) The person has earned a high school diploma or equivalent, as determined by the federal Centers for Medicare and Medicaid Services (CMS) pursuant to the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA). (42 U.S.C. Sec. 263a) (BPC § 1246.7(a)(1)(A))

b) The person has training sufficient to demonstrate that the individual has the skills and abilities required of unlicensed laboratory personnel performing CLIA testing, as specified. (BPC § 1246.7(a)(1)(B))

c) In addition to the education and training requirements specified above, the person has received five hours of training in the proper procedures to be employed when performing a total protein test using a digital refractometer and the procedures for recording the test results, as specified. (BPC § 1246.7(a)(2)(A))

d) The person's training in the proper procedure to be employed when performing a total protein test using a digital refractometer has been certified by a moderate complexity laboratory technical consultant as specified, by a physician and surgeon licensed in this state, or by a licensed clinical laboratory director who is in charge of the licensed plasma collection center. (BPC § 1246.7(a)(2)(B))

e) The instructor documents, and the plasma collection center maintains the documentation of, the individual's successful completion of training in the performance of the total protein test using a digital refractometer. This

documentation must be made available to CDPH upon request. (BPC § 1246.7(a)(2)(C))

f) The person performs the total protein test using a digital refractometer under the supervision of one of the authorized individuals who is physically onsite in the licensed plasma collection center and is available for consultation and direction while the person is processing specimens and performing the test. (BPC § 1246.7(a)(3))

g) The person performs the total protein test using a digital refractometer in accordance with (1) standardized operating procedures required by the licensed plasma collection center's license and (2) standardized procedures developed and approved by the licensed plasma collection center's supervising physician and surgeon or licensed clinical laboratory director for administration of the total protein test by the persons authorized to perform the total protein test pursuant to this section. These standardized procedures must be made available to the CDPH upon request. (BPC § 1246.7(a)(4))

h) The person's competency in performing total protein tests using a digital refractometer is evaluated before testing on donors, and again every six months, by the CLIA lab director or technical consultant by direct observation. A licensed plasma collection center must maintain documentation of the competency evaluation, which must be made available to CDPH upon request. (BPC § 1246.7((a)(6))

i) The person accurately records the results of the total protein test in a federal FDA 510k-approved blood establishment computer system (BECS), which must be verified. (BPC § 1246.7(a)(7))

5) Requires the digital refractometer used to perform a total protein test pursuant under this exemption to meet specified criteria. (BPC § 1246.7(b))

6) Requires a licensed plasma collection center to assess the competency and performance of persons authorized to perform the total protein test pursuant to this authorization and to make any required information or test results available to CDPH, as specified. (BPC § 1246.7(c))

7) Requires records of digital refractometer test results collected to be maintained for three years and made available to CDPH upon request. (BPC § 1246.7(d))

8) Specifies that this authorization remains in effect only until January 1, 2023. (BPC § 1246.7(e))

This bill requires CDPH to determine that a person who performs a total protein test using a digital refractometer do so in accordance with standardized procedures approved by—rather than developed and approved by—the licensed plasma collection center's supervising physician and surgeon or licensed clinical laboratory director.

Background

CDPH and Extending the Existing Pilot Program. Until 2018, state law required that a refractometer test be performed by various licensed personnel, such as a registered nurse or a clinical laboratory scientist, because the test is classified as a moderate complexity test under federal law. AB 613 (Nazarian, Chapter 799, Statutes of 2018) established a pilot program in order to demonstrate that an unlicensed individual could safely conduct a refractometer test. The pilot program, now codified into law, allows anyone with a high school diploma to carry out the test, as long as that person has completed certain training requirements. The program would have sunset at the beginning of 2021 if not for AB 2199 (Nazarian, Chapter 127, Statutes of 2020) which extended this pilot program by two years, allowing an unlicensed individual to perform a total protein test using a digital refractometer during the donor screening process at plasma donation centers until January 1, 2023.

Current Licensing Requirements for Operating a Refractometer. Under current state law, a person performing a total protein test must be supervised by a licensed individual who is available for consultation while the individual is processing specimens. These licensed individuals can be a moderate complexity laboratory technical consultant, a licensed registered nurse, a licensed physician or surgeon, a clinical laboratory director, or a clinical laboratory scientist. Moderate clinical laboratory technical consultants must have an active license in California to perform high complexity testing or to practice medicine, osteopathy or podiatry. They also must have a minimum of two years of experience in moderate or high complexity testing in the specialty or specialties in which they are consulting. They are also generally responsible for the technical and scientific oversight of the laboratory. In contrast, a clinical laboratory scientist is licensed to engage in clinical laboratory practice under the supervision of a clinical laboratory director. A person licensed as a clinical laboratory scientist and qualified under CLIA may perform clinical laboratory tests or examinations classified as of high or moderate complexity under CLIA. This means that clinical laboratory scientists: 1) are not licensed medical professionals whereas moderate complexity laboratory technical consultants may be, 2) are not required to have two years of experience in the field,

and 3) do not have the training for a good understanding of the technical and scientific oversight of a laboratory.

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

SUPPORT: (Verified 7/14/21)

The Plasma Protein Therapeutics Association (source)
Alpha-1 Foundation
California Life Sciences
GBS|CIDP Foundation International
Grifols, Inc.
Hemophilia Federation of America
Immune Deficiency Foundation
Platelet Disorder Support Association
Takeda Pharmaceuticals America
The American Plasma Users Association

OPPOSITION: (Verified 7/14/21)

None received

ARGUMENTS IN SUPPORT: The Plasma Protein Therapeutics Association (PPTA) writes in support and sponsorship: "Passage of AB 392 will ensure that licensed professionals are utilized to the highest level of their job skills resulting in more efficient source plasma donor screening. It will free up specialized staff to perform other essential functions in these source plasma donation centers, such as conducting new donor physical examinations. Before the pilot our members were struggling to find licensed personnel to work at plasma donation centers because of the shortage of nurses in California. The pandemic has only exacerbated this problem. The nurses who perform the total protein test question the utility of their skills in performing such an easy test that outside of California is routinely done by any trained employee."

The American Plasma Users Coalition, including GBS|CIDP Foundation International, Immune Deficiency Foundation, Alpha-1 Foundation, Hemophilia Federation of America, and Platelet Disorder Support Association, writes in support: "It is our understanding that the provisions found in AB 392 will eliminate the pilot status for a program that allows a total protein test using a digital refractometer to be administered by a trained and qualified individual in a licensed plasma donation center. This bill will extend the provisions of AB 613 (2018) and AB 2199 (2020) indefinitely. It is our hope that AB 392 will continue the work

being done in California to reduce barriers for the safe and efficient operation of source plasma collection centers, by bringing the state's regulations more in line with federal standards. Source plasma collection centers are an essential part in the long and complicated process of creating life-saving plasma derived medicines."

California Life Sciences writes in support: "AB 392 makes a technical revision to this Pilot Program on how the standardized procedures are implemented at the donation centers participating in the Pilot Program. These technical changes will help improve and continue this successful Pilot Program that provides entry level positions for those seeking a career in the life sciences sector. Plasma donation centers benefit the communities they are in by providing good jobs to more than 50 employees per center and a positive economic impact of more than $4 million annually."

The GBS|CIDP Foundation writes in support in addition to its letter of support with The American Plasma Users Coalition above: "It is our understanding that the provisions found in AB 392 will eliminate the pilot status for a program that allows a total protein test using a digital refractometer to be administered by a trained and qualified individual in a licensed plasma donation center. This bill will extend the provisions of AB 613 (2018) and AB 2199 (2020) indefinitely. It is our hope that AB 392 will continue the work being done in California to reduce barriers for the safe and efficient operation of source plasma collection centers. Source plasma collection centers are an essential part in the long and complicated process of creating life-saving plasma derived medicines."

Grifols, Inc. writes in support: "AB 392 would bring California's laws in line with the majority of other states that allow a total protein refractometer test to be administered by trained and qualified plasma donation employees. Considering the COVID-19 pandemic, it would further address the limited nursing staff available in the State. Finally, it would allow for a more streamlined collection of plasma from donors, which would improve the donor experience as well as meet the growing demand for plasma medicines."

The Immune Deficiency Foundation (IDF) writes in support: "Despite the state's large population, California is home to only a handful of these plasma donation centers, largely due to regulatory practices that hinder plasma production. These regulations prevent licensed professionals from being utilized to the highest level of their job skills, resulting in less efficient source plasma donor screening. The lack of efficiency and minimal presence of plasma donation centers in California creates a reliance on plasma collection elsewhere and contributes to the strain on

the global plasma supply. The need for plasma and plasma-derived products grows each year – both for the PI community and the larger global population. Updating the governance around plasma donation in California (by removing the sunset in question) can help address that need."

Takeda Pharmaceuticals America writes in support: "California is home to one of the world's most innovative and dynamic life sciences ecosystems and Takeda is proud to be a global, values-based, R&D-driven biopharmaceutical leader in this industry. We are committed to California as evidenced by our investment in three state-of-the-art research and plasma-derived therapy manufacturing facilities and most recently the opening of two BioLife plasma collection centers with two additional centers opening by May 2021. The average source plasma donation center brings an initial construction investment of $3 to $6 million, 50-70 employees and an annual economic impact of $2 to $3 million through donor compensation. These centers will join our network of approximately 150 plasma collection centers throughout the United States."

ASSEMBLY FLOOR: 73-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cunningham, Megan Dahle, Daly, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cooper, Davies, Gallagher, Kalra, Mullin

Prepared by: Dana Shaker / B., P. & E.D. /
7/14/21 16:06:43

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

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

THIRD READING

Bill No: AB 396
Author: Gabriel (D), et al.
Amended: 9/1/21 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/22/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: CalFresh: educational programs

SOURCE: Author

DIGEST: This bill requires the California Department of Social Services (CDSS) to issue guidance to the Chancellor's Offices of the California Community Colleges (CCCs) and the California State University (CSU) and the Office of the President of the University of California (UC) to clarify certain information related to campus-based programs that may qualify a student for an exemption to the CalFresh student rule; delineates certification application requirements for these institutions; and requires CDSS to report certain data to the Legislature and post the report on its website regarding state-approved campus-based local educational programs that increase eligibility.

Senate Floor Amendments of 9/1/21 refine the bill to facilitate implementation of the new procedures for certification of CalFresh employment and training programs.

ANALYSIS:

Existing law:

1) Establishes under federal law the Supplemental Nutrition Assistance Program (SNAP) to promote the general welfare and to safeguard the health and wellbeing of the nation's population by raising the levels of nutrition among low-income households. *(7 USC Section 2011 et seq.)*

2) Establishes in California statute the CalFresh program to administer the provision of federal SNAP benefits to families and individuals meeting specified criteria. *(WIC 18900 et seq.)*

3) Deems, in federal regulations, an individual who is enrolled at least half-time in an institution of higher education as ineligible for participation in SNAP unless the individual qualifies for an exemption, as specified. *(7 CFR 273.5(a))*

4) Requires, in federal regulations, a student to meet specified criteria in order to qualify for an exemption to the prohibition on eligibility for SNAP benefits. *(7 CFR 273.5(b))*

5) Enumerates the programs in which participation could qualify an individual for an exemption to the CalFresh student eligibility rule, employment and training (E&T) programs, among other, as specified. *(7 CFR 273.5(b)(11)(ii) and (iv))*

6) Requires an educational program that could be a component of a CalFresh E&T program, as identified by CDSS, be considered an E&T program pursuant to federal law, as specified. *(WIC 18901.11(a))*

7) Requires CDSS, in consultation with representatives of the Chancellor's Office of the CCCs, the Chancellor's Office for the CSU, and UC Chancellor's Offices, the California Workforce Investment Board, county human services agencies, and advocates for students and clients, to establish a protocol to identify and verify all potential exemptions to the eligibility rule specified in current federal law, and to identify and verify participation in educational programs, as specified, that would exempt a student from the eligibility rule. *(WIC 18901.11(b))*

8) Requires CDSS to maintain and regularly update the list of programs identified by the workgroup as meeting the federal standards, as specified, which provides that a student is eligible for an exemption from the CalFresh program's eligibility rules if the student's attendance can be described as part of a program to increase the student's employability. *(WIC 18901.11(c))*

9) Instructs CDSS to issue and maintain instructions for county human services agencies to verify exemptions to the CalFresh student eligibility rules for students who participate in qualified programs who are approved and anticipate participating in state or federal workstudy, or students who meet one of the qualifications for exemptions, as specified. *(WIC 18901.11(d)(1))*

This bill:

1) Requires CDSS to, on or before May 31, 2022, issue a guidance letter to counties, the Chancellor's Offices of the CCC and CSU and the Office of the President of the UC that does all of the following:

   a) Clarifies the state and federal eligibility requirements for a campus-based program to be a state-approved local educational program that increases employability and that qualifies for the student exemption for CalFresh eligibility, as specified; and

   b) Clarifies the application and approval process for a campus-based program to be approved by the department as a state-approved local educational program that increases employability, as specified, including, but not limited to, clarifying the supporting documents required for program approval.

2) Requires a campus-based program at a campus of the CCC or at a campus of the CSU that meets the eligibility requirements to be a state-approved local educational program that increases employability, as established by the department's guidance letter, to submit a certification application for the program to CDSS on or before September 1, 2022. Further requires, if the campus-based program is available at more than one campus, the application shall list each campus at which the program is available. Permits an individual campus administration, the Chancellor's Office of the CCC or CSU, as applicable, to submit the certification application on behalf of the campus-based program. It also requests the same of a campus-based program at a campus of the UC that meets the eligibility requirements to be a state-approved local educational program that increases employability.

3) Requires a campus-based program that meets the eligibility requirements to be a state-approved local educational program that increases employability after September 1, 2022, at a campus of the CCC or the CSU to submit a certification application to CDSS on or before six months following the formation of the program. Further requires, if the campus-based program is available at more than one campus, the application shall list each campus at which the program is available. Permits an individual campus administration, the Chancellor's Office

of the CCC or the CSU, as applicable, to submit the certification application on behalf of the campus-based program. It also requests the same of a campus-based program at a campus of the UC that meets the eligibility requirements to be a state-approved local educational program that increases employability.

4) Requires CDSS to approve the campus-based program if it meets the eligibility requirements to be a state-approved local educational program that increases employability, as established in the department's guidance letter.

5) Requires CDSS to, on or before September 1, 2023, and annually thereafter, until 2030, report to specified committees of the Legislature the number of state-approved campus-based local educational programs that increase employability that are approved; the number of pending applications; and the number of applications denied and the reason for the denials. Further requires CDSS to post the report on its internet website.

6) Permits CDSS to implement and administer provisions of this bill through all-county letters or similar instruction that shall have the same force and effect as regulations.

Comments

Federal regulations for college students' eligibility for SNAP benefits, which operates as CalFresh in California, are complicated and have been observed to hinder student access to the program. However, a student enrolled in certain education and training programs can qualify for CalFresh benefits if the program in which the student is enrolled has been certified by CDSS. Many of California's institutions of higher education, including the CSUs, UCs, CCCs, vocational schools, and graduate schools, have programs that would likely qualify but have not applied for this certification. AB 396 expands access to CalFresh benefits to potentially thousands of California college students by requiring certain higher education programs to apply for certification by September of 2022.

According to the author, "current CalFresh policy does not require higher education programs that potentially qualify under one of the student exemptions to apply for certification. Because of this, there are many programs that have not yet applied (and are probably not even aware of the E&T exemption, nor their potential qualifying status), leaving a huge gap in the provision of CalFresh benefits to students. Without the requirement to apply, this gap may stay in place for a long time, leaving thousands of students in want of well-deserved CalFresh benefits."

CalFresh

CalFresh provides monthly food benefits to qualified low-income individuals and families to assist with the purchase of the food they need to maintain adequate nutrition levels. CalFresh benefits are 100 percent federally funded and national income eligibility standards and benefit levels are established by the federal government.

For most households, monthly gross income must be at or below 200 percent of federal poverty level (FPL), which amounts to $2,128 for a household of one, in order to be eligible for CalFresh. Additionally, eligible households' adjusted net income must be at or below 100 percent of FPL or $1,064 for a household of one. The benefit amount a household may receive is dependent on circumstances such as household size, countable income, and monthly household expenses. Benefits are made available to recipients on an electronic benefits transfer (EBT) card, which is an automated teller machine-like card that allows an individual to purchase food at point-of-sale devices in stores. The maximum grant amount for a household size of one is $204 as of October 1, 2020. In December 2020, the average household grant was $222 per month.

Historically, California's CalFresh participation rate has been at or near the lowest in the nation, with only about 70 percent of eligible recipients enrolled in CalFresh. This means about 30 percent eligible Californians are not receiving CalFresh. While numerous factors contribute to California's low take up rate, two commonly cited reasons for low enrollment are the complicated enrollment and recertification processes, especially for students and people who are elderly or disabled.

Student Hunger

Food insecurity is defined by the U.S. Department of Agriculture as the condition of limited or uncertain access to adequate food. In December 2018, the United States Government Accountability Office published a report which examined food insecurity among college students and how the federal government could assist in alleviating student hunger. Per the report, food insecurity studies across all 50 states showed that, on average, more than 30 percent of college students experience food insecurity. Research from California shows a higher prevalence of food insecurity among college students who attend public higher education institutions. (NOTE: For more information on food insecurity on California's college campuses, see the Senate Human Services Committee analysis of this bill.)

While CalFresh may be available to some college students, it is often found to be difficult to obtain due to complicated and somewhat confusing rules. In 1977, a

federal law was enacted to restrict college students who are enrolled in higher education at least part-time from accessing CalFresh. This is generally known as the student eligibility rule. The motivation behind the rule was to prevent wealthy college students, who depend on their families for support, from accessing the social benefit.

Since the student eligibility rule was enacted, numerous exemptions have been adopted in an effort to build pathways for food insecure students to access CalFresh. Today, in order to qualify for CalFresh, a student must meet at least one of the following criteria:

- Be age 17 or younger or age 50 or older;
- Be physically or mentally unfit for employment;
- Be receiving Temporary Assistance for Needy Families, which is operated in California as the CalWORKs;
- Be enrolled as a result of participation in the federal Job Opportunities and Basic Skills program or its successor program;
- Be employed for a minimum of 20 hours per week and be paid for that employment or, if self-employed, be employed for a minimum of 20 hours per week and has an income that is at least equal to the federal minimum wage multiplied by 20 hours;
- Be participating in an on-the-job training program;
- Be responsible for the care of a dependent household member under the age of six;
- Be responsible for the care of a dependent household member who has reached the age of six, but is under the age of 12 when CDSS has determined that adequate child care is not available to enable the student to attend class and comply with work requirements;
- Be a single parent enrolled in an institution of higher education on a full-time basis, as determined by the institution, and be responsible for the care of a dependent child under age 12; or,
- Be assigned to, or placed in, an institution of higher education through or in compliance with certain federal programs, including an E&T program for low-income households that is operated by a state or local government where one or

more of the components of such program is at least equivalent to an acceptable E&T program component.

Recent temporary changes in federal rules authorized expanded student eligibility to include students that are enrolled at least half-time in an institution of higher education and who:

- Are eligible to participate in state or federally financed work study during the regular school year, as determined by the institution of higher education; or,

- Have an expected family contribution (meaning the amount of money the student can expect to receive from family) of zero dollars in the current academic year, as determined by federal law.

Even with these exemptions, college student participation in CalFresh remains very low. Anecdotally, college students and administrators at public higher education institutions have expressed frustration with how challenging it can be for college students who face food insecurity to access CalFresh due to the complexity of the student eligibly rules and the accompanying exemptions.

Programs to Increase Students' Employability

A student may qualify for an exemption to the CalFresh student eligibility rule if the student's attendance can be described as part of a program to increase the student's employability. This includes programs for students with low-income that are operated by a state or local government where one or more of the components of the program are equivalent to an E&T component, which includes job retention, job search, job search training, work experience, workfare, vocational-training, self-employment training, on the job training, or education.

CDSS is required to issue guidance and maintain a non-exhaustive list of local student programs that increase employability. Institutions of higher education are encouraged to submit the name and description of on-campus programs to CDSS to qualify as a local student program. As of June 1, 2021, there were over 200 approved programs operating out of California institutions of higher education that have been approved by CDSS as containing at least one E&T component, making students who participate in these programs exempt from the CalFresh student eligibility rule.

This bill requires CDSS to issue guidance to institutions of higher learning and provide a due date by which public higher education institutions' programs are required to submit programs for approval. Furthermore, this bill provides clarity to

these higher education institutions as to why a program is denied so that the program might make necessary changes and reapply for approval.

Related/Prior Legislation

SB 609 (Hurtado, 2021) requires CDSS, upon an appropriation by the Legislature for this purpose, and to the extent permitted by federal law, to include adult education and career technical education programs in the list of programs that are deemed to meet the E&T exemption set forth in the federal regulations. SB 609 is pending on the Assembly Floor.

AB 543 (Davies, 2021) requires the Trustees of the CSU and request the Regents of the UC to provide, as part of campus orientation, educational information about CalFresh, and the eligibility requirements for CalFresh, to all incoming students for all campuses of their respective segments. AB 543 pending on the Senate Floor.

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

SUPPORT: (Verified 9/1/21)

AFSCME, AFL-CIO
Alameda Board of Supervisors
California Association of Food Banks
California Catholic Conference
California Faculty Association
California State Student Association
California State University, Office of the Chancellor
California Student Aid Commission
Coalition of California Welfare Rights Organizations
County Welfare Directors Association of California
Disability Rights California
Food Bank of Contra Costa and Solano
GENUP
John Burton Advocates for Youth
Los Angeles Regional Food Bank
National Association of Social Workers, California Chapter
Second Harvest Food Bank of Orange County
Student Senate for California Community Colleges
The Education Trust - West
University of California Student Association

OPPOSITION: (Verified 9/1/21)

None received

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Taryn Smith / HUMAN S. / (916) 651-1524
9/2/21 16:30:26

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

SENATE RULES COMMITTEE AB 438
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 438
Author: Reyes (D), et al.
Amended: 9/2/21 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 7/5/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 57-14, 5/27/21 - See last page for vote

SUBJECT: School employees: classified employees: layoff notice and hearing

SOURCE: American Federation of State, Counties, and Municipal Employees
California Federation of Teachers, AFL-CIO
California Labor Federation
California School Employees Association
California Teachers Association
Service Employees International Union

DIGEST: This bill makes specified changes related to layoff procedures for classified employees at school and community college districts including requiring district superintendents to provide notice no later than March 15 prior to the ensuing school year of the superintendent's recommendation to the district governing board to initiate required layoff procedures.

Senate Floor Amendments of 9/2/21 make non-substantive grammatical edits and add a co-author.

ANALYSIS:

Existing law:

1) Requires school employers to give classified district employees subject to layoff because of the expiration of a specially funded program at the end of a school year written notice on or before April 29 informing them of certain rights. However, if the termination of a specially funded program is other than June 30, or if classified employees are subject to layoff as a result of a bona fide reduction or elimination of a service performed by any department, existing law requires school employers to give the employees notice not less than 60 days before the effective layoff date. (Education Code § 45117 and §88017)

2) Prohibits layoff of permanent classified employees if the district retains short-term employees, as specified. (Ibid.)

3) Requires districts to implement layoffs and reemployment in accordance with seniority rights. (ED § 45114 and § 88014).

4) Permits districts to implement layoffs without providing specified notices in the event of an actual and existing financial inability to pay salaries or for a lack of work resulting from causes not foreseeable or preventable by the district. (ED §45117 (d) and § 88017(d))

This bill:

1) Declares that it is the intent of the Legislature to provide permanent classified school employees and those who become permanent classified school employees with the same rights to notice and hearing with respect to layoffs as are provided to certificated and academic employees, including teachers and administrators, and academic employees of community college districts.

2) Requires a school or community college district superintendent, or other designated district official, to provide written notice, as specified, of the superintendent's recommendation to the district's governing board that the board give notice to a classified employee that the district will not require the employee's services for the ensuing year due to lack of work or lack of funds. The superintendent shall provide the required notice to the board and also to the affected classified employee not later than March 15, and before the board gives actual notice to the employee that the district will not require the employee's services.

3) Requires the notice and the reasons for the notice to remain confidential and prohibits any person from divulging that information, except as may be necessary in the performance of duties, until the classified employee has requested a hearing as specified, or has waived the right to a hearing.

4) Authorizes a classified employee to request a hearing to determine if there is cause for not reemploying the employee for the ensuing year. A request for a hearing shall be in writing and shall be delivered to the person who sent the notice, on or before March 15 but not be less than seven days after the date on which the notice is served upon the employee. If an employee fails to request a hearing on or before the date specified, the employee's failure to do so shall constitute a waiver of the employee's right to a hearing.

5) Requires, if the classified employee requests a hearing, the district conduct the proceeding and make a decision in accordance with the Administrative Procedure Act's process for an administrative adjudication with additional procedures, as specified.

6) Requires the district to provide the employee a Notice of Termination before May 15 of the year the district commences the specified layoff proceeding.

7) Extends, when the district or administrative law judge has granted a continuance, specified notice and filing requirements that occur on or after the date of the continuance for a period equal to the continuance.

8) Deems the district to have reemployed a permanent employee if the employee does not receive all the hearing and notice rights provided by this bill, as specified.

9) Provides that, notwithstanding the Education Code's other requirements respecting layoff of permanent classified employees, when a district must eliminate classified positions as a result of the expiration of a specially funded program, the district shall give written notice to the employees it will lay off not less than 60 days prior to the effective date of their layoff informing them of their layoff date and their displacement rights, if any, and reemployment rights.

10) Provides that if the Legislature provides certificated employees or academic employees with any additional rights to notice or hearing relating to layoffs after January 1, 2021, classified employees shall receive the same rights.

11) Provides that if the governing board of a community college district notifies a classified employee that the employee's services will not be required for the ensuing year, the board, within 10 days after receipt of the employee's written

request, shall provide the employee with a statement of its reasons for not reemploying the employee for the ensuing college year.

12) Authorizes the governing board of a community college district to adopt, from time to time, rules and procedures not inconsistent with the bill's provisions that may be necessary to effectuate those provisions.

13) Extends specified procedural requirements that currently exist when school employers notify certificated employees of layoffs to layoff notifications of classified employees, including the requirement that where the parties use a hearing to determine whether to revoke suspend, limit, or condition a right, authority, license, or privilege, the parties shall initiate the hearing by filing an accusation or District Statement of Reduction in Force, as specified.

14) Provides that if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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

According to the Senate Appropriations Committee,

- To the extent that the layoff process for classified staff as required by this bill is more costly than current law, this bill would result in increased Proposition 98 General Fund costs to both school districts and community college districts. The magnitude is unknown, but would minimally be in the tens of millions of dollars annually during years in which layoff notices are utilized.

- By requiring school districts and community college districts to make the specified changes related to layoff procedures, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund).

SUPPORT: (Verified 9/2/21)

American Federation of State, Counties, and Municipal Employees (co-source)
California Federation of Teachers, AFL-CIO (co-source)
California Labor Federation (co-source)
California School Employees Association (co-source)

California Teachers Association (co-source)
Service Employees International Union (co-source)
California Alliance of Retired Americans
California Professional Firefighters
California Teamsters Public Affairs Council
Democratic Party of the San Fernando Valley

OPPOSITION: (Verified 9/2/21)

Association of California School Administrators
Association of California Community College Administrators
California Association of Joint Powers Authorities
California Association of School Business Officials
California Association of Suburban School Districts
California County Superintendents Educational Services Association
California School Boards Association
Career Technical Education Joint Powers Authority Coalition
CAROCP – The Association of Career and College Readiness Organizations
Central Valley Education Coalition
Kern County Superintendent of Schools
Orange County Department of Education
Riverside County Superintendent of Schools
San Bernardino County District Advocates for Better Schools
Small School Districts Association
School Employers Association of California
Schools Excess Liability Fund

ARGUMENTS IN SUPPORT: According to the California School Employees Association,

> (This bill)… would standardize the layoff process, so all school employees receive the same March 15th layoff notice and hearing rights.
>
> AB 438 is a parity bill that will ensure that the lowest wage earners in our schools, who are predominately women and are the most diverse workforce, receive the same layoff notice protection as teachers and highly paid administrators. Statute requires districts to provide layoff notice to teachers and certificated administrators by March 15th, or they are protected for the next academic year. They also have hearing rights.

> In contrast, classified employees can be laid off any time of the year with only 60 days notice and in some cases with no notice at all, and they have no hearing rights.

According to the California Teachers Association,

> California's educators honor the services of classified school employees who partner with us on a daily basis to provide our six million students with a qualify public education. A student's school day begins with the first school bus ride in the morning and ends when the custodian turns off the lights at night. One of the many hard lessons of this pandemic has been acknowledging the divide that exists in our communities and also in our workplaces. In the absence of these protections, over 2,000 classified staff have been laid off since last March, even though our schools have not suffered a loss in state funding. We believe that in the unfortunate event layoff notices are issued, classified employees should count on professional rights that provide more stability as they strive to provide for their own families.

ARGUMENTS IN OPPOSITION: According to a coalition of local education agencies and statewide education organizations including the California School Boards Association, the School Employers Association of California, and the Association of California School Administrators expressed the following concerns among many:

- School districts will be forced to be more conservative in their hiring practices, which could be detrimental to students. Districts would likely wait to hire classified staff to do student-related services or functions until the student numbers are stable. This creates the real potential of chaos among parents, students, and the community.

- There will be a significant cost to school districts related to hiring an administrative law judge, court reporter, legal fees, and other matters associated with the hearing process. In addition, during a classified layoff, employees may be able to bump across classifications which requires a thorough analysis in order to insure the correct employees receive layoff notification. This is a labor intensive and time consuming process.

- The increase in layoff cases will result in a significant increase in layoff appeals, which ultimately appear before the Office of Administrative Hearings (OAH). The state would need to increase the budget for OAH, as school

districts already struggle for enough administrative law judges under the current construct.

Local educational agencies (LEAs) are one of California's largest employers, and staff salaries and benefits comprise the largest part of LEA budgets – as much as 90 percent in some instances. Having a March 15 layoff notice requirement in statute for both certificated and classified employees would require LEAs to finalize their budgets three full months before the state budget is adopted.

ASSEMBLY FLOOR: 57-14, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Nguyen, Patterson, Seyarto, Smith, Valladares, Waldron
NO VOTE RECORDED: Chen, Choi, Flora, Frazier, Gray, Mathis, Mayes

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
9/4/21 7:15:11

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

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

THIRD READING

Bill No: AB 451
Author: Arambula (D)
Amended: 8/31/21 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-1, 6/10/21
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Grove
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 73-0, 5/10/21 - See last page for vote

SUBJECT: Health care facilities: treatment of psychiatric emergency medical conditions

SOURCE: California Chapter of the American College of Emergency Physicians

DIGEST: This bill requires a psychiatric unit of a general acute care hospital, a psychiatric health facility of more than 16 beds that is not county operated, and an acute psychiatric hospital, to accept a transfer of a person with a psychiatric emergency medical condition, regardless of whether the facility operates an emergency department, if the facility has appropriate facilities and qualified personnel available to provide the services.

Senate Floor Amendments of 8/31/21 create a new section of law rather than amend an existing section, and exempt psychiatric health facilities that are county owned and operated, as well as those that have 16 or fewer beds.

ANALYSIS:

Existing law:

1) Licenses and regulates hospitals, including a general acute care hospital and an acute psychiatric hospital (APH), by the California Department of Public Health (CDPH). Permits general acute care hospitals, in addition to the basic services all hospitals are required to offer, to be approved by CDPH to offer special services, including, among other services, an emergency department (ED), and psychiatric services. [HSC §1250 and §1255, et seq.]

2) Licenses psychiatric health facilities (PHFs) by the Department of Health Care Services (DHCS), which are defined as health facilities that provide 24-hour inpatient care for people with mental health disorders, whose physical health needs can be met in an affiliated hospital or in outpatient settings. [HSC §1250.2]

3) Requires EDs, under the federal Emergency Medical Treatment and Active Labor Act (EMTALA) and also under similar provisions of state law (state EMTALA), to provide emergency screening and stabilization services without regard to the patient's insurance status or ability to pay. Federal EMTALA imposes this requirement on any hospital that participates in Medicare. State EMTALA imposes this requirement on any hospital that operates an ED. [42 USC §1395dd; HSC §1317]

4) Defines "emergency services and care," under state EMTALA, as medical screening, examination, and evaluation by a physician to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery, if within the scope of that person's license, necessary to relieve or eliminate the emergency medical condition, within the capability of the facility. [HSC §1317.1 (a)(1)]

5) Defines "emergency services and care," under state EMTALA, to also mean an additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, within the capability of the facility. Specifies that the care and treatment necessary to relieve or eliminate a psychiatric emergency medical condition may include admission or transfer to a psychiatric unit within a general acute care hospital, or to an APH. [HSC §1317.1 (a)(2)]

6) Prohibits a person needing emergency services and care from being transferred from a hospital to another hospital for any nonmedical reason (such as the person's inability to pay for any emergency service or care) unless certain conditions are met, including that the person has been provided with emergency services so that it can be determined, within reasonable medical probability, that the transfer will not create a medical hazard to the person. [HSC §1317.2]

7) Establishes the Lanterman-Petris-Short (LPS) Act and declares the intent of the Legislature to end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, as well as to safeguard a person's rights, provide prompt evaluation and treatment, and provide services in the least restrictive setting appropriate to the needs of each person. [WIC §5000, et seq.]

8) Authorizes, under Section 5150 of the Welfare and Institutions Code, a peace officer, member of the attending staff of a "designated facility," as defined, member of the attending staff of a designated facility, or other professional person designated by the county, upon probable cause, to take a person with a mental disorder who is a danger to self or others, or is gravely disabled, into custody (a "5150" hold) and place in a designated facility. [WIC §5150]

9) Defines "designated facility" or "facility designated by the county for evaluation and treatment" as a facility that is licensed or certified as a mental health treatment facility or a hospital, as defined, and includes, but is not limited to, a licensed psychiatric hospital, a licensed psychiatric health facility, and a certified crisis stabilization unit. [WIC §5008]

This bill:

1) Requires a psychiatric unit within a general acute care hospital, a PHF of more than 16 beds, and an APH, to accept a transfer of a person with a psychiatric emergency medical condition, as defined, from a hospital that operates an emergency department, and to provide emergency services and care to that person consistent with provisions of state EMTALA that define emergency care for psychiatric emergency medical conditions, regardless of whether the facility operates an ED, if all of the following requirements are met:

    a) The treating physician at the sending facility has determined that the patient is medically stable and appropriate for treatment in a psychiatric setting and has included that determination in the patient's medical record;
    b) The facility has an available bed; and,

c) The facility has appropriate facilities and qualified personnel available to provide the services.

2) Requires a facility accepting a transfer of a person with a psychiatric emergency medical condition to comply with specified requirements of state EMTALA that prohibit discrimination in the provision of emergency services, that require care to be rendered without questioning a patient's ability to pay, and that prohibit a facility from conditioning a transfer on a person being in custody pursuant to Section 5150 of the Welfare and Institutions Code.

3) Exempts state hospitals, and PHFs that are county owned and operated, from the requirements of this bill.

Comments

1) *Author's statement.* According to the author, this bill was introduced to help individuals in a mental illness crisis obtain access to appropriate care. Like many others, individuals in a mental health crisis may seek care at the nearest ED. After an evaluation by an ED physician some individuals need additional psychiatric services and require a transfer by ambulance to a psychiatric hospital. However, emergency physicians have experienced trouble trying to transfer patients to private psychiatric facilities that do not maintain an ED. It's been reported that some facilities will not accept a Medi-Cal or uninsured patient. There have also been instances of facilities not accepting a patient because the patient is not on a 5150 hold, when the patient needs more intense psychiatric services the ED cannot provide. This bill specifies an APH, regardless of whether it maintains an ED, is required to provide emergency services to relieve or eliminate a psychiatric emergency medical condition.

2) *APHs, psychiatric health facilities, and crisis stabilization units.* Generally speaking, inpatient beds for acute psychiatric patients are either provided in a distinct behavioral health unit of a general acute care hospital, in a freestanding APH, or in a PHF. All of these can be, and most are, designated LPS facilities. There are 33 licensed APHs in California, and 29 PHFs. APHs are licensed by CDPH, and are required to provide medical, nursing, rehabilitative, pharmacy and dietary services, in addition to psychiatric services. PHFs are licensed by DHCS, and while not a hospital, are licensed to provide inpatient acute psychiatric care similar to a psychiatric hospital. However, the requirements for PHFs are not the same as those for APHs. For example, PHFs are not required to provide general medical services. While a PHF is required to have a physician be on-call at all times, a patient can only be admitted to a PHF if the

individual's physical health care could otherwise be managed on an outpatient basis. An APH, on the other hand, is required to provide a medical service as part of their basic services, which must include a general medicine component. The general medicine component is required to provide all incidental medical services necessary for the care and support of patients, including general medicine and surgery. PHFs historically are county-run, or under contract by counties, to provide inpatient care to Medi-Cal beneficiaries through a county mental health plan.

In addition to inpatient facilities, counties can designate certain outpatient facilities under the LPS Act, such as crisis stabilization units. A crisis stabilization unit is generally open 24 hours a day, seven days a week, and provides up to 23 hours of psychiatric urgent care intended to stabilize a patient suffering from psychiatric distress, with the goal of stabilizing the patient and avoiding the need for inpatient care.

Recent amendments adopted on the Senate Floor exempted PHFs from this bill if they are county owned, or if they are 16 beds or fewer. With these amendments, according to information provided by the author, the only PHFs that will be affected by this bill are Telecare Heritage PHF in Alameda County (26 beds), Ocean View PHF in Los Angeles County (36 beds), Pacific Health Group PHF in Los Angeles County (74 beds), and Kaiser Permanente PHF in Santa Clara County (24 beds).

3) *EMTALA.* EMTALA was passed to address the problem of hospitals refusing to treat indigent, uninsured, or Medicaid patients, or "dumping" these patients by transferring them to county hospitals or other charity hospitals. Federal EMTALA obligates Medicare-participating hospitals that offer emergency services to provide a medical screening and treatment for an emergency medical condition, including active labor, regardless of an individual's ability to pay. State EMTALA imposes its obligation on any hospital that operates an ED, and has similar requirements to federal EMTALA. Hospitals are required to provide stabilizing treatment for patients with an emergency medical condition. A patient is "stabilized" when the patient's medical condition is such that, within reasonable medical probability, no material deterioration of the patient's condition is likely to result from the release or transfer of the patient. If a hospital is unable to stabilize a patient within its capability, then a patient is required to be transferred to an appropriate facility with the necessary specialized treatment services. Once a patient is stabilized, if the patient needs

post-stabilization care, the hospital will typically seek more information about the medical history of the patient, including whether the patient has insurance.

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

SUPPORT: (Verified 8/30/21)

California Chapter of the American College of Emergency Physicians (source)
Association of Regional Center Agencies
California Medical Association
Depression and Bipolar Support Alliance
National Alliance on Mental Illness, California
Steinberg Institute
Tenet Healthcare Corporation

OPPOSITION: (Verified 8/30/21)

None received

ARGUMENTS IN SUPPORT: This bill is sponsored by the California Chapter of the American College of Emergency Physicians (California ACEP), which states that this bill improves patient access to psychiatric transfers. According to California ACEP, when people with mental illnesses are in a crisis, they seek care in the same way patients with other urgent health conditions do, by going to the nearest ED. After an evaluation by an emergency physician, some patients need additional psychiatric services and require transfer by ambulance to a psychiatric hospital to receive a higher level of mental health care. However, California ACEP states that emergency physicians report that psychiatric hospitals routinely ask for the insurance status of a patient before determining whether to accept a transfer, despite the fact this violates the spirit, if not the letter, of current law. California ACEP states that psychiatric beds should be available to all patients facing an emergency medical condition, regardless of their ability to pay. The Steinberg Institute supports this bill for similar reasons. Tenet Healthcare Corporation states in support that a patient presenting with a mental health crisis needs mental health intervention and stabilization and in most cases, EDs are no the appropriate environment for that care. Moreover, most hospitals are non-designated and do not have the staff and specialized services to treat a psychiatric patient. Tenet states that more admissions should be occurring directly to psychiatric facilities without undue delays, and that this bill requires a psychiatric unit of a general acute care hospital, a PHF, and an APH to comply with existing law requiring emergency services to be provided regardless of a patient's ability to pay in order to treat a psychiatric emergency medical condition.

ASSEMBLY FLOOR: 73-0, 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, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Chen, Gallagher, Eduardo Garcia, Gray, Patterson

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
9/1/21 16:20:22

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

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

THIRD READING

Bill No: AB 462
Author: Carrillo (D)
Amended: 8/30/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 11-0, 6/21/21
AYES: Roth, Archuleta, Bates, Becker, Eggman, Hurtado, Jones, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Dodd, Leyva

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

SUBJECT: Licensed Professional Clinical Counselor Act

SOURCE: California Association for Licensed Professional Clinical Counselors

DIGEST: This bill deletes the requirement for a licensed professional clinical counselor (LPCC) to obtain 150 hours of clinical experience in a hospital or community setting as a condition of licensure; deletes the requirement for an LPCC to obtain additional education and clinical experience related to marriage and family therapy in order to treat couples or families; and makes other technical and conforming changes.

Senate Floor Amendments of 8/30/21 add language to address chaptering issues with AB 690 (Arambula).

ANALYSIS:

Existing law:

1) Establishes the Board of Behavioral Sciences (BBS) under the Department of Consumer Affairs to license and regulate licensed marriage and family therapists, licensed educational psychologists (LEPs), licensed clinical social

workers, and LPCCs. (Business and Professions Code (BPC) § 4990)

2) Specifies that "professional clinical counseling" does not include the assessment or treatment of couples or families unless the LPCC has completed all of the following training and education:

   a) One of the following: Six semester units or nine quarter units focused on the theory and application of marriage and family therapy; or a named specialization or emphasis area on the qualifying degree in marriage and family therapy; marital and family therapy; marriage, family, and child counseling; or couple and family therapy.

   b) No less than 500 hours of documented supervised experience working directly with couples, families, or children; and, a minimum of six hours of continuing education specific to marriage and family therapy completed in each renewal recycle. (BPC § 4999.20(a)(3))

3) Requires supervised experience obtained for purpose of qualifying for licensure to be related to the practice of professional clinical counseling and comply with the following:

   a) A minimum of 3,000 post-degree hours performed over a period of not less than 2 years, and not more than 40 hours in any seven consecutive days;

   b) Not less than 1,750 hours of direct clinical counseling with individuals, groups, couples, or families, using a variety of psychotherapeutic techniques and recognized counseling interventions;

   c) Not less than 150 hours of clinical experience in a hospital or community mental health setting, as defined;

   d) A maximum of 1,250 hours of non-clinical practice, consisting of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences directly related to professional clinical counseling that have been approved by the applicant's supervisor; and, a maximum of 1,200 hours gained under the supervision of an LEP, providing educationally related metal health services that are consistent with the scope of practice of an LEP, as specified. (BPC § 4999.46(c))

This bill:

1) Eliminates the additional coursework requirements necessary for LPCCs to assess and treat couples and families, as specified.

2) Deletes the requirement that an applicant for licensure as a professional clinical counselor complete 150 hours in a hospital or community health setting.

3) Makes other technical and conforming changes.

Background

Licensed Professional Clinical Counselors. LPCCs apply counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems.

LPCCs work in a variety of settings including hospitals, private practice, and community-based mental health organizations. LPCCs can use a variety of psychological techniques to help their clients, including individual, group, marriage and family therapy. As specified in BPC § 4999.20, "professional clinical counseling" is focused exclusively on the application of counseling interventions and psychotherapeutic techniques for the purposes of improving mental health, and is not intended to capture other, nonclinical forms of counseling for the purposes of licensure. LPCCs can be licensed to treat couples, families, individuals and children. However, in order to treat couples and families, a California-LPCC must complete additional coursework in marriage and family therapy, and take continuing education in order to continue to counsel couples and families. According to the author and sponsor, California is the only state requiring an LPCC to complete additional requirements post-licensure to be able to work with couples and families. This bill removes those additional coursework and experience requirements, thereby allowing LPCCs to treat couples and families based on initial requirements for licensure.

In order to obtain licensure as an LPCC, an applicant who began graduate study on or after August 1, 2012, is required to obtain a master's or doctoral degree from an accredited or approved institution, which covers counseling or psychotherapy in content, and includes supervised practicum in specified content areas. In addition, an applicant must obtain a minimum of 3,000 post-degree hours of supervised

experience; the individual must register with the BBS as an associate. Out of the 3,000 hours, BPC § 4999.46 specifies the breakdown of hours acquired by the subject content and the location in which an associate may obtain the supervised experience. For example, registrants gaining hours must acquire 1,750 hours of direct clinical counseling with groups, couples, or families, a maximum of 1,250 hours of nonclinical practice, and 150 hours of clinical experience in a hospital or community mental health setting. Existing law also specifies that registrants cannot earn more than 40 hours in seven consecutive days. Regarding the 150 hours of direct clinical counseling in a hospital or community mental health setting, the sponsors note that acquiring these hours has become increasingly challenging for registrants to obtain, as these are temporary positions (potentially a little over three weeks of work) and those settings (community mental health settings and hospitals) do not fill these limited time frame type positions. As currently drafted, this bill does not reduce the total 3,000-hour requirement, but redistributes those 150 hours to other settings, although, as currently drafted it is unclear how that 150 hours will be redistributed.

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

SUPPORT: (Verified 8/18/21)

California Association for Licensed Professional Clinical Counselors (source)
Board of Behavioral Sciences
California Association for Health Services at Home
County Behavioral Health Directors Association of California

OPPOSITION: (Verified 8/18/21)

None received

ARGUMENTS IN SUPPORT: California Association for Licensed Professional Clinical Counselors writes in support, "When California established the Licensed Professional Clinical Counselor Act (Act) in 2009; it became the 50th state to license clinical counselors. In negotiating SB 788 (Chapter 619, Statutes of 2009) which established the LPCC license, two amendments were made late in the legislative process: (1) requiring additional education, supervised training, and continuing education for an LPCC to see couples and families. (2) Requiring registered APCCs to obtain 150 hours of clinical experience in a hospital or community mental health setting. Ten years have passed since the enactment of LPCC licensure, and it is time for these artificial requirements to be removed from the law."

County Behavioral Health Directors Association of California writes in support, "AB 462 would allow LPCCs to assess and treat couples or families without completing the above-described additional training and education requirements, which are not required in other states. This bill would remove unnecessary requirements that operate as a barrier for Californians to gain access to care because of the limited number of LPCCs."

California Association for Health Services at Home writes in support and notes, "This bill would clarify the definition of "Professional clinical counseling" by excluding the provisions of clinical social work services in the [BPC]."

The Board of Behavioral Sciences writes in support and notes, "The requirement for community mental health setting experience is not part of the standard practice for post-graduate experience requirements for the LPCC license nationally. Additionally, no other state prohibits LPCCs from assessing and treating couples and families without additional specific training. Therefore, the Board believes that it is critically important to remove these restrictions, in order to provide a more viable pathway to licensure for these much-needed mental health professionals."

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/31/21 13:27:26

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

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

THIRD READING

Bill No: AB 490
Author: Gipson (D) and Bonta (D), et al.
Amended: 8/26/21 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: 55-15, 6/2/21 - See last page for vote

SUBJECT: Law enforcement agency policies: arrests: positional asphyxia

SOURCE: California Faculty Association

DIGEST: This bill bans law enforcement agencies from authorizing techniques or transportation methods that involve a substantial risk of positional asphyxiation.

ANALYSIS:

Existing law:

1) Defines "deadly force" as any use of force that creates a substantial risk of causing death or serious bodily injury. Deadly force includes, but is not limited to, the discharge of a firearm. (Gov. Code, § 7286, subd. (a)(1).)

2) Defines "feasible" means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person. (Gov. Code, § 7286, subd. (a)(2).)

3) Requires that each law enforcement agency shall, by no later than January 1, 2021, maintain a policy that provides a minimum standard on the use of force. Each agency's policy shall include all of the following: (Gov. Code, § 7286, subd. (b).)

   a) A requirement that officers utilize deescalation techniques, crisis intervention tactics, and other alternatives to force when feasible.
   b) A requirement that an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.
   c) A requirement that officers report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer.
   d) Clear and specific guidelines regarding situations in which officers may or may not draw a firearm or point a firearm at a person.
   e) A requirement that officers consider their surroundings and potential risks to bystanders, to the extent reasonable under the circumstances, before discharging a firearm.
   f) Procedures for disclosing public records in accordance with Section 832.7.
   g) Procedures for the filing, investigation, and reporting of citizen complaints regarding use of force incidents.
   h) A requirement that an officer intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.
   i) Comprehensive and specific guidelines regarding approved methods and devices available for the application of force.
   j) An explicitly stated requirement that officers carry out duties, including use of force, in a manner that is fair and unbiased.
   k) Comprehensive and specific guidelines for the application of deadly force.
   l) Comprehensive and detailed requirements for prompt internal reporting and notification regarding a use of force incident, including reporting use of force incidents to the Department of Justice in compliance with Section 12525.2.
   m) The role of supervisors in the review of use of force applications.

n) A requirement that officers promptly provide, if properly trained, or otherwise promptly procure medical assistance for persons injured in a use of force incident, when reasonable and safe to do so.
o) Training standards and requirements relating to demonstrated knowledge and understanding of the law enforcement agency's use of force policy by officers, investigators, and supervisors.
p) Training and guidelines regarding vulnerable populations, including, but not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.
q) Comprehensive and specific guidelines under which the discharge of a firearm at or from a moving vehicle may or may not be permitted.
r) Factors for evaluating and reviewing all use of force incidents.
s) Minimum training and course titles required to meet the objectives in the use of force policy.
t) A requirement for the regular review and updating of the policy to reflect developing practices and procedures.

4) Requires that each law enforcement agency shall make their use of force policy adopted pursuant to this section accessible to the public. (Gov. Code, § 7286, subd. (c).)

5) Mandates that the Commission on Peace Officers Standards and Training (POST) shall implement a course or courses of instruction for the regular and periodic training of law enforcement officers in the use of force and shall also develop uniform, minimum guidelines for adoption and promulgation by California law enforcement agencies for use of force. The guidelines and course of instruction shall stress that the use of force by law enforcement personnel is of important concern to the community and law enforcement and that law enforcement should safeguard life, dignity, and liberty of all persons, without prejudice to anyone. These guidelines shall be a resource for each agency executive to use in the creation of the use of force policy that the agency is required to adopt and promulgate pursuant to Section 7286 of the Government Code, and that reflects the needs of the agency, the jurisdiction it serves, and the law. The course or courses of the regular basic course for law enforcement officers and the guidelines shall include all of the following: (Penal Code, *§* 13519.10)

a) Legal standards for use of force.
b) Duty to intercede.
c) The use of objectively reasonable force.

d) Supervisory responsibilities.
e) Use of force review and analysis.
f) Guidelines for the use of deadly force.
g) State required reporting.
h) Deescalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence.
i) Implicit and explicit bias and cultural competency.
j) Skills including deescalation techniques to effectively, safely, and respectfully interact with people with disabilities or behavioral health issues.
k) Use of force scenario training including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don't-shoot situations, and real-time force option decision-making.
l) Alternatives to the use of deadly force and physical force, so that deescalation tactics and less lethal alternatives are, where reasonably feasible, part of the decision-making process leading up to the consideration of deadly force.
m) Mental health and policing, including bias and stigma; and
n) Using public service, including the rendering of first aid, to provide a positive point of contact between law enforcement officers and community members to increase trust and reduce conflicts.

This bill:

1) Prohibits law enforcement agencies from authorizing techniques or transport methods that involve a substantial risk of positional asphyxia.

2) Defines positional asphyxia as situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing. This includes the use of any physical restraint that causes the person's respiratory airway to be compressed or impairs the persons breathing or respiratory capacity, including any action in which pressure or body weight is unreasonably applied against a restrained person's neck, torso, or back, or positioning a restrained person without reasonably monitoring for signs of asphyxia.

Background

The Legislature passed, and the Governor signed, AB 1196 (Gipson, Chapter 324, Statutes of 2020) in 2020. AB 1196 codified a ban on choke holds in California and banned the use of carotid restraint in the state. Choke holds had been effectively banned in California, but not expressly banned. The practice fell out of favor over many years due to serious injury and death caused by the usage of

the technique. Over the years both federal and State of California courts found the practice subjects municipalities, government entities, and law enforcement agencies that permit the usage liable for wrongful death and serious injury to persons who have been subjected to the use of a choke hold by law enforcement agencies. As a result of these findings of liability, the usage of choke holds fell out of favor and cities and agencies routinely banned their usage. Additionally, the Commission on Peace Officer Standards and Training (POST) ceased instruction on the technique. However, the practice had never been expressly banned in California statute and AB 1196 made that clarification.

Carotid restraint is very similar to a choke hold. The practice involves the cutting-off of blood circulation to the head of the person upon which the hold is placed. This process can cause the person to lose consciousness. This technique has conventionally been taught to be less deadly than a traditional choke hold which can more easily collapse the wind pipe because it's focused on the front of the neck. However, a slight deviation in the placement of the arm of the person implementing the hold can convert a carotid restraint into a choke hold. Additionally, cutting off blood flow to a person's brain has its own dangers. AB 1196 prohibited both practices in the State of California by law enforcement.

This bill expands the section created by AB 1196 to include banning law enforcement agencies from authorizing techniques and forms of transportation that have a substantial likelihood of resulting in positional asphyxiation.

The opponents of the bill argue that the definitions contained in the prohibition to law enforcement agencies are subjective and ambiguous. They argue that in order to combat and arrest aggressive individuals they must occasionally result to restraints, holds, and restrictive positioning.

Proponents of the legislation point to the recent killings of Angelo Quinto, Mario Gonzalez, and George Floyd as highlighting the need to ban law enforcement's use of these practices with a passage of a uniform statewide policy on restraints that have a substantial likelihood of causing positional asphyxia.

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

According to the Senate Appropriations Committee:

- *Local law enforcement agencies:* Unknown, potentially-significant one-time costs ranging from the tens of thousands to the hundreds of thousands in the aggregate for local law enforcement agencies to update their policies and retrain

current officers in accordance with AB 490. Some agencies employ a contract service to ensure their policies reflect recent changes in statutory and case law. This measure may require more attention to revise policies than other prohibitions on practices to the extent agencies would have to consider which alternatives are appropriate for that specific agency to adopt, particularly with respect to transporting an individual. Alternatively, some agencies would incur no to minimal costs, as their policies generally are in alignment with this bill. Local costs to comply with this measure would be subject to reimbursement by the state to the extent that the Commission on State Mandates determines that this bill imposes a state-mandated local program. Considering that there are over 500 local law enforcement agencies across the state, costs to implement this measure could reach into the hundreds of thousands of dollars. (General Fund, local funds)

- *Department of Justice:* Unknown workload cost pressures for Deputy Attorneys General related to increased litigation resulting from alleged violation of this measure by state law enforcement agencies. (Special fund*)

- *State law enforcement agencies:* Many state law enforcement agencies, including the California Highway Patrol, the Department of Corrections and Rehabilitation, the California State University, and the University of California indicate that their current practices and policies already are in compliance with this measure or that this measure would impose minor and absorbable costs to update department manuals and lesson plans.

SUPPORT: (Verified 8/26/21)

California Faculty Association (source)
ACLU California Action
Alliance for Boys and Men of Color
American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties
Asian Pacific American Labor Alliance – Sacramento
Black Leadership Council
California Alliance of Boys & Girls Clubs Inc.
California Association of Black School Educators
California Attorneys for Criminal Justice
California Dental Association
California Department of Insurance
California Public Defenders Association
City and County of San Francisco

City of Berkeley
Compton Unified School District
Consumer Attorneys of California
Disability Rights California
Everytown for Gun Safety Action Fund
Initiate Justice
Los Angeles County District Attorney's Office
Moms Demand Action for Gun Sense in America
National Action Network - Sacramento Chapter
National Association of Social Workers, California Chapter
Students Demand Action for Gun Sense in America
Vietnamese American Roundtable

OPPOSITION: (Verified 8/26/21)

California Police Chiefs Association
California State Sheriffs' Association

ARGUMENTS IN SUPPORT: According to the ACLU California Action:

> "Last year, after the high-profile death of George Floyd by law enforcement in Minneapolis, social unrest rightly engulfed the nation. California responded by passing AB 1196 (Gipson) to ban law enforcement from using chokeholds. While designed to incapacitate or render subjects unconscious, the holds have proven in practice to be extremely dangerous and often lethal.
> However, the technique used by law enforcement on Floyd was another form of "positional asphyxia" – a "knee-to-neck" restraint, rather than a chokehold.
>
> "In December of last year, Angelo Quinto, a Navy veteran from Northern California, was tragically killed by police. Quinto had been suffering from a mental health episode when his family called the police for help to de-escalate the situation. The circumstances of Angelo Quinto's death dramatically parallel George Floyd's, and both exposed gray area and loopholes in use-of-force policies While Quinto lay face down and bloodied with hand cuffs behind his back, a responding officer knelt on Quinto's neck for nearly five minutes while another officer restrained his legs. Quinto lost and never regained consciousness – he died in hospital three days later.

> "While current statewide use-of-force policy prohibits law enforcement from using any type of chokehold, including the carotid restraint, it does not explicitly address using a "personal body weapon" that reduces one's ability to breathe. AB 490 will create a uniform statewide policy on restraints that cause positional asphyxia to ensure that they can no longer be improperly applied on Californians."

ARGUMENTS IN OPPOSITION: According to the California Police Chiefs Association:

> "On behalf of the California Police Chiefs Association (CPCA), I must respectfully inform you of our opposition to AB 490, which sets new prohibitions on restraint techniques that are subjective and unclear.
>
> "Specifically, AB490 adds a prohibition on "techniques or transport methods that involve a substantial risk of positional asphyxia." Although the bill attempts to define the types of restraint techniques in question, the restrictions remain subjective. Furthermore, the definition of "substantial risk" begets additional ambiguity. To combat and arrest an aggressive individual, officers must occasionally resort to restraints, holds and restrictive positioning. Some of those restraint techniques have been found more dangerous than others. CPCA fully supported the removal of the carotid restraint and chokehold, but to remove the additional holds noted in this bill would remove tools needed to overcome dangerous individuals, and would create unnecessary risk for the public, and for our officers.
>
> "The language in AB 490 lacks the clarity and specificity an issue of this magnitude deserves, and therefore, CPCA must oppose this measure. However, we remain committed to improving law enforcement techniques, including ensuring non-resistant and restrained individuals are not subjected to unnecessary risks of positional asphyxia."

ASSEMBLY FLOOR: 55-15, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low,

Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Chen, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel

NO VOTE RECORDED: Bigelow, Choi, Cooper, Frazier, Gray, Kiley, Mayes, Ramos, Waldron

Prepared by: Gabe Caswell / PUB. S. /
8/31/21 9:31:03

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

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

THIRD READING

Bill No: AB 515
Author: Chen (R)
Amended: 9/2/21 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 6/15/21
AYES: Ochoa Bogh, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Bradford

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 4/19/21 - See last page for vote

SUBJECT: Trespass

SOURCE: California Association of Licensed Repossessors

DIGEST: This bill grants repossession agencies the ability to enter private properties when they are searching for collateral or repossessing collateral and requires the agency to leave the property immediately after the search and repossession is complete.

Senate Floor Amendments of 9/2/21 clarify that this bill requires repossession agency employees to leave upon completion of, not only the search, but the actual repossession of the collateral.

ANALYSIS:

Existing law:

1) Provides that it is a misdemeanor for entering and occupying real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession. (Pen. Code, § 602, subd. (m).)

2) Exempts a process server, as defined in Section 22350 of the Business and Professions Code from specified trespass laws. (Pen. Code § 602, subd. (n).)

3) Requires any person who makes more than 10 services of process within this state during one calendar year, for specific compensation or in expectation of specific compensation, where that compensation is directly attributable to the service of process, shall file and maintain a verified certificate of registration as a process server with the county clerk of the county in which he or she resides or has his or her principal place of business. (Bus. & Prof. Code § 22350, subd. (a).)

4) Defines "repossession agency" to mean and includes any person who, for any consideration whatsoever, engages in business, or accepts employment to locate or recover collateral, whether voluntarily or involuntarily, including, but not limited to collateral registered under the provisions of the Vehicle Code, which is subject to a security agreement, except as specified. (Bus. & Prof. Code, § 7500.2.)

5) States that no person shall engage in the activities of a repossession agency unless the person holds a valid repossession agency license or is exempt from licensure, as provided. (Bus. & Prof. Code, § 7502.)

6) Requires a licensee to serve a debtor with notice of seizure as soon as possible within specified time periods and requires specified information to be included in the notice such as contact information of the legal owner and the repossession agency. (Bus. & Prof. Code, § 7507.10.)

This bill allows a repossession agency, and its employees to enter private property, not open to the public, and without the consent of the owner when they are searching for collateral or repossessing collateral, and upon completing the search and repossession, leave the private property immediately.

Comments

According to the Bureau of Security and Investigative Services (BSIS), which licenses and regulates repossession agencies, the agency is authorized to collect the respective collateral at any time from any location. The BSIS also establishes the repossession agency must obey the same laws that pertain to everyone. This includes prohibiting the entry to private buildings and damaging buildings, fences, or landscaping in order to enter a property. (*Bureau of Security and Investigative Services: Frequently Asked Questions-Repossession Agency (RA)*, https://www.bsis.ca.gov/consumers/faqs/repo.shtml [as of August 2, 2021].)

AB 515 clarifies that the punishments listed in the existing law do not apply to repossession agencies and their employees when they are collecting collateral on a private property.

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

SUPPORT: (Verified 9/3/21)

California Association of Licensed Repossessors (source)
Riverside Sheriffs Association

OPPOSITION: (Verified 9/3/21)

None received

ARGUMENTS IN SUPPORT: According to the bill's sponsor, California Association of Licensed Repossessors:

> This bill addresses the problem that occurs when a repossessor with a repossession order enters private property to repossess collateral and the debtor calls the police claiming that a repossessor is trespassing onto their property in an attempt to prevent the order from being completed. This has been an issue when a vehicle is being repossessed, and the car is sitting in an open and unsecured driveway. This problem also occurs when solar panels are repossessed and has become a growing issue as solar installations increase. The repossessor is on the roof removing the panels and the consumer takes the ladder and calls the police, claiming the repossessor is trespassing. In such cases it becomes a dispute of conflicting accounts that the police must deal with. As a result, the repossessor may be erroneously arrested and required to go to court for "trespassing" only for the case to get dismissed at the hearing. Due to the repossessor's arrest, they now have criminal arrest history for simply doing their job. The solution would be to clarify the trespass provisions in Section 602 of the Penal Code. The clarification would be the same as the exemption for registered process servers and requires the repossessor to leave the property immediately upon completing the search or repossessing the collateral.

ASSEMBLY FLOOR: 78-0, 4/19/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, 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, 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: Mayes

Prepared by: Kapri Walker / PUB. S. /
9/4/21 7:15:12

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

SENATE RULES COMMITTEE AB 526
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 526
Author: Wood (D)
Amended: 9/1/21 in Senate
Vote: 27 - Urgency

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 7/12/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

SUBJECT: Dentists and podiatrists: clinical laboratories and vaccines

SOURCE: California Dental Association

DIGEST: This bill authorizes a dentist or doctor of podiatric medicine (DPM), if the dentist or DPM complies with specified requirements, to independently prescribe and administer influenza and COVID-19 vaccines approved or authorized by the United States Food and Drug Administration (FDA) for persons 3 years of age or older, as specified. This bill also counts vaccine training provided through the federal CDC toward the fulfillment of a dentist or DPM's continuing education (CE) requirements. This bill expands the definition of "laboratory director" to include a duly licensed dentist and a pharmacist-in-charge serving as the director of a laboratory that performs only authorized clinical laboratory tests, as specified.

Senate Floor Amendments of 9/1/21 add specific language to address potential chaptering out issues with SB 409 (Caballero) and add a "pharmacist-in-charge" as a laboratory director, consistent with SB 409 (Caballero).

ANALYSIS:

Existing law:

1) Establishes the Dental Board of California (DBC) to regulate the practice of dentistry. (Business and Professions Code (BPC) §§ 1600 *et seq.*)

2) Defines "dentistry" as the diagnosis or treatment, by surgery or other method, of diseases and lesions and the correction of malpositions of the human teeth, alveolar process, gums, jaws, or associated structures; and such diagnosis or treatment may include all necessary related procedures as well as the use of drugs, anesthetic agents, and physical evaluation. (BPC § 1625)

3) Establishes the Podiatric Medical Board of California (PMBC) and vests the PMBC with regulation of podiatric medicine. (BPC §§ 2460 *et seq.*)

4) 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 § 2472)

5) Provides that a licensed dentist or licensed podiatrist, among other providers, may perform a clinical laboratory test or examination classified as waived under the federal Clinical Laboratory Improvement Amendments Program, provided that the laboratory test or examination is performed under the overall operation and administration of a qualified laboratory director. (BPC § 1206.5)

6) Defines "laboratory director" as including the following professions: physician and surgeons, or anyone licensed to direct a clinical laboratory, as specified. (BPC § 1209)

7) Defines "laboratory director" as additionally including, for the purposes of waived tests or examinations: clinical laboratory scientist, limited clinical laboratory scientist, naturopathic doctor, optometrist serving as the director of a laboratory that only performs clinical laboratory tests authorized in paragraph (10) of subdivision (d) of Section 3041. (BPC § 1209)

This bill authorizes a dentist or DPM, if the dentist or DPM complies with specified requirements, to independently prescribe and administer influenza and COVID-19 vaccines approved or authorized by the United States Food and Drug Administration (FDA) for persons three years of age or older, as specified. This bill also counts vaccine training provided through the federal CDC toward the

fulfillment of a dentist or DPM's CE requirements. This bill expands the definition of "laboratory director" to include a duly licensed dentist and a pharmacist-in-charge serving as the director of a laboratory that performs only authorized clinical laboratory tests, as specified.

Background

DBC. The DBC is responsible for licensing and regulating dental professionals in California. Today, the DBC licenses an estimated 89,000 dental professionals, of which approximately 43,500 are fully licensed dentists; 44,500 are registered dental assistants; and 1,700 are registered dental assistants in extended functions. The DBC is also responsible for setting the duties and functions of an estimated 50,000 unlicensed dental assistants. Dental hygienists are licensed and regulated by a separate and distinct regulatory body, the Dental Hygiene Board of California.

Statute defines dentistry as "the diagnosis or treatment, by surgery or other method, of diseases and lesions and the correction of malpositions of the human teeth, alveolar process, gums, jaws, or associated structures; and such diagnosis or treatment may include all necessary related procedures as well as the use of drugs, anesthetic agents, and physical evaluation." Dentists are health care practitioners authorized to write and issue prescriptions for controlled substances. Oral and maxillofacial surgeons are a surgically trained specialty of dentistry that have completed additional residency requirements. The DBC's regulation of dental professionals includes licensing, regulatory, and disciplinary responsibilities. The DBC reviews and approves applications for initial or renewed licensure, determining whether an applicant has sufficient education and training to possess a license, certification, or permit. The DBC also engages in disciplinary activities through its own enforcement division, investigating potential violations of the Act and taking action against professional misconduct. The DBC additionally monitors licensees who have been placed on probation and manages a diversion program for licensees whose practice may be impaired due to abuse of drugs or alcohol. Currently, neither dentists nor dental hygienists have the authority in their practice act to administer any type of vaccine.

PMBC. The Podiatric Medical Board of California (PMBC) is tasked with oversight of practitioners of podiatric medicine (DPMs or podiatrists) and administers and enforces the laws relating to licensure. Podiatric medicine focuses on the foot and ankle. In California, it is defined 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" (Business and Professions Code [BPC] § 2472(b)). It is unlawful to practice podiatric medicine without a license and licensed podiatrists are known as DPMs. Currently, podiatrists do not have the authority in their practice act to administer any type of vaccine.

Continuing Education Requirements for Dentists and DPMs. Like most professions, dentists and DPMs have to fulfill certain continuing education requirements in order to maintain their licensure. Dentists must complete a basic life support course, a California Infection Control course, and a California Dental Practice Act course, for a total of 8 units of CE coursework. DPMs must complete 50 hours of approved CE, including a minimum of 12 hours in subjects related to the lower extremity muscular skeletal system, and one of the continuing competence pathways specified in BPC Section 2496(a) through (h), during each two (2) year renewal period. Each doctor of podiatric medicine renewing his or her license under the provisions of Section 2423 of the code may be required to submit proof satisfactory to the board of compliance with the provisions of this article every two (2) years. Both boards require that courses be taken from an approved course provider or program.

COVID-19 Pandemic and Responsive Legislation. The COVID-19 pandemic brought about a scientific race to the cure. Scientists around the world began testing for medical treatments including vaccines, plasma therapies, and other medicines and biologics. In an effort to respond to the pandemic last year, Assemblymember Wood carried AB 1710 (Wood, Chapter 123, Statutes of 2020). Originally, this bill would have authorized a pharmacist to independently initiate and administer vaccines approved by the FDA under certain circumstances. However, because the intention of the bill was specific to COVID-19, and because at that time no vaccine or other therapeutic was available to the public to prevent COVID-19, Assemblymember Wood narrowed the bill at the Committee's suggestion to expand pharmacists' authority to be able to administer COVID-19 vaccines. AB 1710 (Wood, Chapter 123, Statutes of 2020) expanded pharmacist's scope of practice in this area, permitting pharmacist to independently initiate and administer any COVID-19 vaccines approved and authorized by the FDA under certain circumstances.

In early 2021, the Department of Consumer Affairs issued a waiver allow dentists and DPMs to administer the COVID-19 vaccines. Since then, more professions have sought statutory authority to administer to COVID-19 vaccines and other immunizations. In addition to this bill, AB 691 (Chau, 2021) codifies authorization

for optometrists to administer the COVID-19 vaccine and perform waived tests for COVID-19. AB 1064 (Fong, 2021) seeks to authorize a pharmacist to independently initiate and administer any vaccine approved or authorized by the FDA for persons three years of age and older.

Laboratory Director. 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 clinical laboratory test or examination classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988 to be performed under the overall operation and administration of a laboratory director, which is defined to include the following licensees: physician 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, optometrist serving as the director of a laboratory that only performs clinical laboratory tests authorized in paragraph (10) of subdivision (d) of Section 3041.

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

SUPPORT: (Verified 9/1/21)

California Dental Association (source)
Association of Dental Support Organizations
California Association of Orthodontists
California Podiatric Medical Association
California Society of Health-System Pharmacists
Department of Consumer Affairs, Dental Board of California

OPPOSITION: (Verified 9/1/21)

None received

ARGUMENTS IN SUPPORT: The Association of Dental Support Organizations writes in support, "Dental professionals administer injections to patients throughout every day of their practice, and after the requisite immunization training requirements set forth in the bill, dentists across the state will be in the position significantly augment California's response to any number of public health concerns."

The California Association of Orthodontists writes in support, "To protect the public from the COVID-19 pandemic, the health care system must be ready to

vaccinate the residents of California at the fastest rate possible. Allowing all appropriately trained health care providers to provide these critical vaccinations will add access and speed to the process. Orthodontists are dentists who have completed additional training in the specialty of orthodontics. In that capacity, we know that dentists are well equipped to administer vaccines because they routinely provide injections to particularly sensitive areas of the mouth that are in a dark, wet environment, navigate around major blood vessels, nerves, and other complex and important structures like bone, ligaments, joints, and a moving tongue. Dentists also have extensive training in microbiology, autoimmune response, and general anatomy, pharmacology (ability to respond to drug interactions/allergic reactions) and starting IVs. It is crucial that vaccines be offered at every entry point to the health care system. Offering a vaccine at every opportunity will help turn immunization into a concerted, coordinated health care effort."

The California Dental Association writes in support, "… this bill will align California laboratory registration statute with federal law so that dentists can obtain the appropriate state registration alongside their federal licensure in order to conduct simple, reliable, waived tests within their scope of practice…Although screening for COVID-19 is within a dentist's scope of practice, current COVID-19 tests are considered "high-complexity" tests that required specialized laboratory technology and would not be performed in a dental office. However, as soon as there is an FDA-approved "waived test" for screening asymptomatic patients that is reliable, affordable and readily available, dentists will need to be able to use it in their dental offices. Dentists need to be able to rapidly screen all patients before dental treatment to protect the dental team from COVID-19 exposure and to help direct asymptomatic patients to appropriate care."

The California Podiatric Medical Association writes in support, "Doctors of podiatric medicine undergo education and training similar to their allopathic and osteopathic physician colleagues and possess more than enough experience to prescribe and administer the influenza and COVID-19 vaccine…doctors of podiatric medicine have many opportunities to interact with their patients as they are on staff in a variety of health-care settings, such as hospitals, nursing homes, wound care centers, and outpatient surgical centers. Facing a shortage of medical personnel, hospitals and other health-care facilities called upon doctors of podiatric medicine and podiatric residents to provide care to patients diagnosed with COVID-19, and doctors of podiatric medicine are ready to serve again."

The California Society of Health-System Pharmacists (CSHP) writes in support, "As an association that represents providers and experts in medication management, CSHP recognizes the value of ensuring that preventative healthcare is available to all patients. As such, CSHP applauds your efforts to increase the accessibility of vaccines to the community."

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Dana Shaker / B., P. & E.D. /
9/2/21 16:30:20

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

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

THIRD READING

Bill No: AB 527
Author: Wood (D)
Amended: 9/1/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 6/21/21
AYES: Roth, Archuleta, Bates, Eggman, Hurtado, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Becker, Dodd, Jones, Leyva

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 7/13/21
AYES: Bradford, Ochoa Bogh, Durazo, Kamlager, Skinner

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

SUBJECT: Controlled substances

SOURCE: Author

DIGEST: This bill expands existing provisions authorizing the prescription, furnishing, dispensing, transfer, transportation, possession, or use of cannabidiol products in accordance with federal law, upon the specified changes being made to federal law, to include all products with cannabinoids. This bill exempts from specified schedules compounds, mixtures, or preparations that contain a nonnarcotic controlled substance in combination with a derivative of specified substances listed in the federal Table of Exempted Prescription Products and have been exempted pursuant to federal law or regulation. This bill requires the California Department of Justice (DOJ) to provide the University of California (UC) with access to identifiable data for research purposes.

Senate Floor Amendments of 9/1/21 require the DOJ to provide the UC only with access to identifiable data for research purposes.

ANALYSIS: Existing Federal Law establishes the federal Controlled Substances Act (federal Act) which regulates he manufacture, importation, possession, use, and distribution of controlled substances such as hallucinogens, narcotics, depressants, and stimulants. Categorizes drugs into five schedules based on their potential for abuse, status in international treaties, and any medical benefits they may provide. Specifies that Schedule I drugs, including marijuana, are considered the most harmful and have no medical benefitsm and Schedule 5 substances are the least restricted. (21 United States Code § 812)

Existing state law:

1) Establishes the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and adult-use cannabis. (Business and Professions Code (BPC) § 26000)

2) Establishes the Department of Cannabis Control (Department) to regulate cannabis with the sole authority to create, issue, deny, renew, discipline, suspend, or revoke licenses for microbusinesses, transportation, storage unrelated to manufacturing activities, distribution, testing, and sale of cannabis and cannabis products within the state. Requires the Department to administer the portions of MAUCRSA related to and associated with the cultivation of cannabis and with the manufacturing of cannabis products. Delegates to the Department authority to create, issue, deny, and suspend or revoke cultivation or manufacturing licenses for violations of MAUCRSA. (BPC §§ 26010, 26012)

3) Establishes the California Uniform Controlled Substances Act (UCSA), which classifies controlled substances into five designated schedules, with the most restrictive limitations placed on controlled substances classified as Schedule I (including cannabis), and the least restrictive limitations placed on Schedule 5. (Health and Safety Code (HSC) § 11000 *et seq.*)

4) Authorizes a physician, dentist, podiatrist, veterinarian, naturopathic doctor, a registered nurse, a certified nurse-midwife, a nurse practitioner, a physician assistant, or an optometrist to write or issue a prescription, as specified. (HSC § 11150)

5) Requires, under UCSA, a prescription for a controlled substance to be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. Indicates that the

responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Indicates that any person who knowingly violates this provision shall be punished by imprisonment not exceeding one year, or by a fine not exceeding $20,000, or by both fine and imprisonment. (HSC § 11153)

6) Restricts the prescription, furnishing, possession, sale, and use of controlled substances, including cannabis and synthetic cannabinoid compounds, and makes a violation of those laws a crime, except as specified. (HSC § 11150)

7) Permits, if one of specified changes in federal law regarding the controlled substance cannabidiol occurs, a physician, pharmacist, or other healing arts licensee who prescribes, furnishes, or dispenses a product composed of cannabidiol, in accordance with federal law, to be in compliance with state law governing those acts and provides that, upon the effective date of one of those changes in federal law, the prescription, furnishing, dispensing, transfer, transportation, possession, or use of that product in accordance with federal law is for a legitimate medical purpose and is authorized pursuant to state law (HSC § 11150.2 (a))

8) Provides that a cannabidiol product composed of cannabidiol may be prescribed, furnished, dispensed, transferred, transported, possessed, or used in accordance with federal law and is authorized pursuant to state law, so long as cannabidiol is federally rescheduled or otherwise made a controlled substance that can be legally prescribed, furnished, dispensed, transferred, transported, possessed, or used. (HSC § 11150.2 (b))

9) Prohibits medical professionals from prescribing, administering, or dispensing a controlled substance to an addict, as defined. (HSC § 11156)

10) Establishes the Controlled Substance Utilization Review and Evaluation System (CURES), for the purposes of collecting records of dispensed Schedule II, III, IV, and V controlled substances. (HSC § 11165)

11) Requires health care practitioners in receipt of a federal Drug Enforcement Administration (DEA) registration providing authorization to prescribe controlled substances, as well as pharmacists, to register for access to the CURES database. (HSC § 11165.1)

12) Prohibits any person from obtaining or attempting to obtain a prescription for controlled substances, by fraud, deceit, misrepresentation, subterfuge, or the concealment of a material fact. (HSC § 11173)

13) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act to provide for a comprehensive regulatory framework for the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medicinal and adult-use cannabis. (Business and Professions Code (BPC) §§ 26000 et al.)

14) Exempts products containing cannabidiol that have been approved by the federal Food and Drug Administration (FDA) from regulation under MAUCRSA. (BPC § 26002).

This bill:

1) Expands existing provisions authorizing the prescription, furnishing, dispensing, transfer, transportation, possession, or use of cannabidiol products in accordance with federal law, upon the specified changes being made to federal law, to include all products with cannabinoids.

2) Exempts from specified schedules compounds, mixtures, or preparations that contain a nonnarcotic controlled substance in combination with a derivative of specified substances listed in the federal Table of Exempted Prescription Products and have been exempted pursuant to federal law or regulation.

3) Requires the DOJ to provide the UC with access to identifiable data for research purposes.

Background

*Cannabinoids vs. Cannabidiols***.** Cannabinoids are the chemicals found in the Cannabis plant. Among those chemicals, or cannabinoids, are popular names like Tetrahydrocannabinol (THC) and Cannabinols (CBN), and Cannabidiols (CBD). According to the National Institute of Health, CBD is a compound isolated from cannabis which does not cause psychoactive activity and has pain relieving, anti-inflammatory, anti-psychotic, and tumor-inhibiting properties. There are currently 208 clinical trials of CBD listed on the federal clearinghouse, clinicaltrials.gov.

FDA Drug Approval Process. The FDA reviews drug applications to determine whether they are safe and effective through scientific investigations, including

adequate and well-controlled clinical trials. The FDA has several programs to facilitate the approval of drugs for certain conditions. The Orphan Drug Act grants special status to a drug or biological product to treat a rare disease or condition which qualifies the sponsor for various development incentives, including tax credits for qualified clinical testing. "Fast track" is a process designed to facilitate the development and expedite the review of drugs to treat serious conditions and fill an unmet medical need. According to its website, "To date, the FDA has not approved a marketing application for cannabis for the treatment of any disease or condition. The agency has, however, approved one cannabis-derived drug product: Epidiolex (cannabidiol), and three synthetic cannabis-related drug products: Marinol (dronabinol), Syndros (dronabinol), and Cesamet (nabilone). These approved drug products are only available with a prescription from a licensed healthcare provider. Importantly, the FDA has not approved any other cannabis, cannabis-derived, or cannabidiol (CBD) products currently available on the market."

California Cannabis Regulatory Background. Cannabis was first legalized in California for medical consumption by Proposition 215, also known as the Compassionate Use Act in 1996. Proposition 215 protected qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes.

The Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA) in 2015. MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis to be administered by the Bureau of Cannabis Control (BCC) within Department of Consumer Affairs, the Department of Public Health, and the Department of Food and Agriculture, with implementation relying on each agency's area of expertise.

Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (Prop 64), which legalized adult-use cannabis.

Less than a year later in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017), that integrated MCRSA with Prop 64 to create MAUCRSA.

In an effort to improve access to licensing and simplify regulatory oversight of commercial cannabis activity, the Governor signed AB 141 (Committee on Budget, Chapter 70, Statutes of 2021) to consolidate the three cannabis licensing

entities that are currently housed at the Bureau, the Department of Food and Agriculture, and the Department of Public Health into a single Department of Cannabis Control. Establishment of a standalone department with an enforcement arm is designed to centralize and align critical areas to build a successful legal cannabis market, by creating a single point of contact for cannabis licensees and local governments. The intent is to ultimately simplify and centralize State regulatory efforts; improve coordination, including enforcement; reduce barriers to participation in the legal market; and incentivize greater local participation.

The Department of Justice (DOJ) and UC. Under existing law, the DOJ must maintain the Controlled Substances Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by a health care practitioner authorized to prescribe, order, administer, furnish, or dispense these drugs. Currently, existing law limits the entities that can receive data from CURES, as well as the type of data that can be released and the uses of that data. Specifically for this bill, the UC cannot currently use this data for research.

Prior to last year, UC had access to information in the CURES database for research purposes. However, they lost that access during the period of time where public comment was open for organizations to express concerns regarding regulations being promulgated in accordance with AB 1751 (Low, Chapter 478, Statutes of 2018), which provided a framework for the CURES to connect with other states that comply with California's patient privacy and data security standards.

According to conversations with stakeholders, initially the California Academy of Family Physicians (CAFP) and the Medical Board of California (MBC) expressed concerns with making data more broadly available to researchers. On the other side, CDPH and The University of California submitted comments speaking to the importance of providing this data to researchers. In response to these concerns, the DOJ "made considerable revisions to section 826, subdivision (f), to help ensure patient privacy." Mainly, these revisions required that identified individual-level data may be disclosed, but only with the prior written voluntary consent of the individual to whom the data pertains. Because UC conducts research on a broad scale, the Author agreed to include an amendment that would allow UC to have access to identifiable data for research purposes. CAFP and MBC have both agreed to these changes.

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

SUPPORT: (Verified 9/1/21)

California Council for the Advancement of Pharmacy
California State Board of Pharmacy
Greenwich Biosciences, Inc.
University of California

OPPOSITION: (Verified 9/1/21)

None received

ARGUMENTS IN SUPPORT: Greenwich Biosciences, Inc. writes in support: "The bill accomplishes this critical change in law by substituting the term "cannabinoid" for the term "cannabidiol" in Section 11150.2 of the Health and Safety Code. This change in law is necessary to ensure that patients can access cannabinoid medications that have gone through the rigorous FDA review and approval process and have been rescheduled under the federal Controlled Substances Act."

The California State Board of Pharmacy writes in support: "As a consumer protection agency charged with regulating the practice of pharmacy, the Board is seeking changes to the California controlled substances schedule to align with the federal schedule after consideration of comments received from stakeholders that the current discrepancy creates confusion and impacts the Board's licensees. Currently, federal law exempts from scheduling some combination drugs where the ratio of the components meets specified criteria. California does not have similar provisions. This measure will allow for the alignment for the specified combination products."

The California Council for the Advancement of Pharmacy writes in support: "This bill addresses two separate but equally important issues: 1) it would allow California to mirror the Federal government's list of scheduled drugs for CIIIs and CIVs that are exempted from scheduling….With California's alignment of controlled drugs mirroring the federal government, patients will be better served, and pharmacists will spend less time with CURES reporting and more time with their patients; 2) although cannabidiol products are listed with the federal government as a Schedule I drug these products are legal in many states inclusive of California….AB 527 would allow pharmacists and pharmacies to follow California and federal law, if/when the day comes that the federal government decides to remove cannabidiol products from Schedule 1 to a lesser Schedule."

The University of California (UC) writes in support: "Prior to recent regulatory changes that effectively prohibited access to certain CURES data by requiring informed consent, UC was able to conduct epidemiological evaluations utilizing healthcare records and CURES data, among other state-managed databases, to assess the effectiveness of treatments for substance use disorders, examine gender-related factors in substance abuse and treatment, and identify predictors likely to lead to dose escalation and/or overdose of prescribed medications. These efforts reflect more than $8 million in current, active funding for opioid research and have included multiple research projects conducted in collaboration with the California Department of Justice. UC believes that access to CURES data for research and public health purposes is critical to reducing prescription drug addiction and overdose in California."

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, 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, 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, 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: Holden, Reyes

Prepared by: Dana Shaker / B., P. & E.D. /
9/2/21 16:30:21

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

SENATE RULES COMMITTEE AB 532
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 532
Author: Wood (D)
Amended: 8/31/21 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/10/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/22/21 (Consent) - See last page for vote

SUBJECT: Health care: fair billing policies

SOURCE: Author

DIGEST: This bill creates additional disclosure requirements on hospitals related to written notices about the availability of discounted payment and charity care policies for uninsured patients and patients with high medical costs, such as, including the internet address of an organization that will help patients understand billing and payment processes, specifying the timing of disclosures, and posting of notices in observation units.

Senate Floor Amendments of 8/31/21 include chaptering out provisions to reconcile this bill with AB 1020 (Friedman) should both bills be enacted (Section 2.5 of this bill), and make it clear that written estimates must be provided for a person without health insurance, not only upon request.

ANALYSIS:

Existing law:

1) Establishes the Office of Statewide Health Planning and Development (OSHPD) in the California Health and Human Services Agency. [HSC § 127000, et seq.]

2) Establishes the Payers Bill of Rights, which requires most hospitals to list charge description masters on their internet websites and file them with OSHPD, prohibits contracts with health insurers and health plans from waiving this requirement, requires hospitals to file the average charges associated with the 25 most common inpatient and outpatient services, and permits hospitals to be subject to civil penalties for violation. [HSC §1339.50, et seq.]

3) Requires a hospital, upon request, to provide a person without health coverage a written estimate of the amount the hospital will require the person to pay for the health care services, procedures, and supplies that are reasonably expected to be provided by the hospital, based upon an average length of stay and services associated with the diagnosis, and information about the hospital's financial assistance and charity care policies. Requires, if requested, a hospital to also provide the person with an application form for financial assistance or charity care. Excludes emergency services. [HSC §1339.585]

4) Requires each hospital as part of licensure to maintain understandable written policies on discounted payments and charity care for uninsured patients or patients with high medical costs who have income up to 350% of the federal poverty level (approximately $45,000 for a single person). [HSC §127405]

5) Requires each hospital to provide patients with a written notice about the availability of the hospital's discount payment and charity care policies, including information about eligibility, contact information for a hospital employee or office, an estimate as described in 3) above, including to patients who receive emergency or outpatient care and who may be billed for that care, but who were not admitted. Requires the notice to be in English and languages other than English, and written correspondence to be in the language spoken by the patient, as specified. [HSC §127410]

6) Requires notice of the hospital's policy for financially qualified and self-pay patients to be clearly and conspicuously posted in locations that are visible to the public, including, but not limited to, all of the following:

a) Emergency department, if any;
b) Billing office;
c) Admissions office; and,
d) Other outpatient settings. [HSC §127410]

This bill:

1) Requires hospitals to provide an application for financial assistance or charity care, not only upon request.

2) Requires the discount payment and charity care policies notice to also include the internet address for the Health Consumer Alliance (HCA - https://healthconsumer.org), and explain that there are organizations that will help the patient understand the billing and payment process, as well as information regarding Covered California and Medi-Cal presumptive eligibility, if the hospital participates in the presumptive eligibility program. Requires the notice to also include the internet address for the hospital's list of shoppable services, pursuant to the federal Hospital Price Transparency Rule.

3) Requires the written notice to be provided at the time of service if the patient is conscious and able to receive the written notice at that time. Requires, if the patient is not able to receive notice at the time of service, the notice to be provided during the discharge process. Requires, if the patient is not admitted, the written notice to be provided when the patient leaves the facility. Requires, if the patient leaves the facility without receiving the written notice, the hospital to mail the notice to the patient within 72 hours of providing services.

4) Requires the notice of the hospital's policy for financially qualified and self-pay patients to be clearly and conspicuously posted in observation units.

Comments

Author's statement. According to the author, while current law requires hospitals to provide uninsured patients with cost estimates and to notify patients without health coverage regarding charity care and discount payment policies, the patient must ask for this information, and many people have no idea that charity care or discounted payments are available. The author notes that existing law also lacks specificity on when and how patients receive this information, and many do not receive it at all. The author concludes that this bill provides for more timely notice and specific information to be provided to hospital patients who are uninsured and in need of financial assistance.

Hospital Price Transparency Rule. In November of 2019, the Centers for Medicare and Medicaid Services (CMS), finalized Section 180 of Title 45 of the Code of Federal Regulations, also known as the Hospital Price Transparency Rule, which took effect on January 1, 2021. Under the rule, hospitals operating in the United States are required to provide clear, accessible pricing information online about the items and services they provide as a comprehensive machine-readable file, and, display shoppable services in a consumer-friendly format. Shoppable services are services that are scheduled in advance by the patient.

According to the final rule summary these actions are necessary to promote price transparency in health care and public access to hospital standard charges. By disclosing hospital standard charges, CMS believes the public (including patients, employers, clinicians, and other third parties) will have the information necessary to make more informed decisions about their care. CMS indicates these final policies will help to increase market competition, and ultimately drive down the cost of health care services, making them more affordable for all patients.

The final rule creates: (1) A definition of "hospital"; (2) definitions for five types of "standard charges" (specifically, gross charges and payer-specific negotiated charges, as proposed, plus the discounted cash price, the de-identified minimum negotiated charge, and the de-identified maximum negotiated charge) that hospitals would be required to make public; (3) a definition of hospital "items and services" that would include all items and services (both individual and packaged) provided by the hospital to a patient in connection with an inpatient admission or an outpatient department visit; (4) a requirement that deems federally owned/operated facilities to have met all requirements; (5) requirements for making public a machine-readable file that contains a hospital's gross charges and payer-specific negotiated charges, as proposed, plus discounted cash prices, the de-identified minimum negotiated charge, and the de-identified maximum negotiated charge for all items and services provided by the hospital; (6) requirements for making public payer-specific negotiated charges, as proposed, plus discounted cash prices, the de-identified minimum negotiated charge, and the de-identified maximum negotiated charge, for 300 "shoppable" services that are displayed and packaged in a consumer-friendly manner, plus a policy to deem hospitals that offer internet-based price estimator tools as having met this requirement; (7) monitoring hospital noncompliance with requirements for publicly disclosing standard charges; (8) actions that would address hospital noncompliance, which include issuing a written warning notice, requesting a corrective action plan (CAP), and imposing civil monetary penalties (CMPs) on noncompliant hospitals and publicizing these penalties on a CMS website; and, (9) appeals of CMPs.

Related/Prior Legislation

AB 204 (Wood, Chapter 535, Statutes of 2019) revised not-for-profit hospital community benefit reporting requirements by: (a) adding a definition of charity care; (b) requiring small and rural hospitals to comply with the law if they are part of a hospital system; (c) requiring hospitals to report charity care at cost (as reported to OSHPD) and provide an explanation in their community benefit report of how they calculated the cost of charity care; and, (d) requiring OSHPD to annually prepare a report on the amount each hospital spent on community benefits, including the amount attributable to charity care.

SB 1276 (Hernandez, Chapter 758, Statutes of 2014) revised hospital charity care programs by making individuals who meet the income requirements eligible, even if they have received a discounted rate from the hospital as a result of third-party coverage. Defined "reasonable payment formula," for purposes of these charity care programs, as monthly payments that do not exceed 10% of a patient's family income.

AB 774 (Chan, Chapter 755, Statutes of 2006) required hospitals to maintain an understandable written policy regarding discounted payments and charity care to financially qualified patients, defined as a self-pay patient with high medical costs who has a family income that does not exceed 350% of the federal poverty level.

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

SUPPORT: (Verified 8/31/21)

California Chronic Care Coalition
California Dental Association
California Pan-Ethnic Health Network
Health Access California
National Association of Social Workers, California Chapter
Service Employees International Union of California
Western Center on Law & Poverty, Inc.

OPPOSITION: (Verified 8/31/21)

None received

ARGUMENTS IN SUPPORT: Western Center on Law and Poverty writes that they are a member of the HCA and provide technical assistance and support to the local legal services programs that make up the HCA, which provides free consumer assistance to Californians who struggle to get or maintain health

coverage or access health care services. According to Western Center on Law and Poverty there is an increase in hospital debt, including individuals who were not screened for Medi-Cal or the hospital's own financial assistance policy. Given the rise in unemployment due to the COVID-19 pandemic, many consumers also lost their health care coverage and are unaware of the options available to them. At the same time some hospitals felt financial strain in the early days of the pandemic as health care services not related to COVID-19 were all but closed down. However, billing patients without notifying them of their options will not resolve the underlying financial strain for either the hospitals or their patients. The sooner patients can understand their rights and find a consumer assistance organization, the quicker these organizations can help them navigate the health care system, both to resolve the underlying hospital bill the and to get them into health care coverage for future health care needs. The California Dental Association writes that this bill is a simple and common-sense solution to help educate patients about their health care options and link them to existing resources to help navigate the health care system; and it is reasonable to undertake this education effort targeted at uninsured individuals who are already walking in the doors of the health care system in need of care. Health Access California writes that this is a common-sense approach to protecting consumer's rights.

ASSEMBLY FLOOR: 77-0, 4/22/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, 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, 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, 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: Holden, Reyes

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
9/3/21 10:44:01

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

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

THIRD READING

Bill No: AB 539
Author: Cooley (D), et al.
Introduced: 2/10/21
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

SUBJECT: State teachers' retirement: investment managers and investment advisers: contracts

SOURCE: California State Teachers' Retirement System

DIGEST: This bill authorizes the California State Teachers' Retirement System (CalSTRS), with the approval of the State Personnel Board (SPB), to establish criteria to bypass the state competitive bidding process and instead develop an internal process or processes to contract with investment managers and investment advisers after a finding that the necessary expertise it seeks is unavailable in the civil service.

ANALYSIS:

Existing law:

1) Establishes strict standards for the use of personal services contracts under which a state agency may contract for personal services rather than utilize civil service employees. The standards permit the agency to contract if the services are not available within civil service, civil service employees cannot satisfactorily perform the services, or the services 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. (Government Code (GC) § 19130 (b)(3))

2) Requires state agencies seeking to let personal services contracts pursuant to GC Section 19130(b) provide notice to relevant public employee representatives and, if requested by those representatives, to undergo specified review procedures be the Department of General Services (DGS). (GC § 19132(b))

3) Declares the Legislature's intent that CalSTRS obtain the best possible investment expertise and secure investment advisors[1] with the composite expertise necessary for the investment of the CalSTRS retirement fund portfolio. (Education Code (ED) § 22350 and § 22351)

4) Defines "investment manager" and "investment adviser" [2] to mean any person, firm, or custodian (i.e., bank or trust company), either appointed by or under contract with the board to engage in investment transactions or to manage or advise in the management of the assets of the Teachers' Retirement Fund with respect to the Defined Benefit and the Cash Balance Benefit Programs. (ED § 22143)

5) Prohibits, generally, contracting for state work of a long-term nature that could be done by permanent state employees and creates the state civil service that includes every officer and employee of the State except a limited number of specified, exempted officers and employees. Existing law also requires that the state make "permanent appointment and promotion in the civil service under a general system based on merit ascertained by competitive examination." (Cal. Const. Art. VII, § 1 and § 4)

6) Authorizes the CalSTRS board, upon its finding that necessary investment expertise is not available within existing civil service classifications, and with the approval of the SPB, to contract with qualified investment *managers* having demonstrated expertise in the management of large and diverse investment portfolios to render service in connection with CalSTRS' investment program. (ED § 22352)

---

[1] The relevant Education Code sections sometimes use the spelling "advisor" and other times use the term "adviser" without apparent distinction (Cf., ED §22351 and ED § 22353).

[2] Both of the terms "investment manager" and "investment adviser" are included in one definition which, however, from context appears to distinguish the two positions. Nevertheless, federal securities law and ERISA also blend the terms. (ED §22143, 15 USC § 80b-2 (11), 29 USC § 1002 (38))

7) Requires CalSTRS to retain by contract not less than two separate individual investment *advisers*. (ED § 22353)

8) Requires CalSTRS, pursuant to the state civil service statutes, to either contract with, or establish and fill full-time positions for, investment managers experienced and knowledgeable in corporate management issues, as specified. (ED § 22354)

9) Declares that placing all public contract law in one code will make that law clearer and easier to find and achieve the following state objectives: clarify the law with respect to competitive bidding requirements; ensure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds; provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices; and eliminate favoritism, fraud, and corruption in the awarding of public contracts. (Public Contract Code (PCC) § 100)

10) States that to encourage competition for public contracts and to aid public officials in the efficient administration of public contracting, to the maximum extent possible, for similar work performed for similar agencies, California's public contract law should be uniform. (PCC § 102)

11) Provides that all contracts entered into by any state agency for services are void unless and until the DGS approves the contract. (PCC § 10295)

12) Requires state agencies to follow a competitive bidding process for service contracts, as specified, with provisions for minimum number of bids and prohibitions on sole source contracts among other protections. (PCC § 10335 et seq.)

13) Authorizes SPB to establish necessary standards and controls over DGS' approval of contracts to assure that the approval is consistent with the merit employment principles and requirements contained in Article VII of the California Constitution. SPB shall have discretion to establish the substantive provisions of the standards. However, SPB and DGS shall establish the specific procedures for contract review pursuant to such standards jointly. (PCC § 10337)

This bill:

1) Authorizes CalSTRS to create a board policy (with the approval of SPB) to establish competitive bidding processes that CalSTRS would use (in lieu of the

state's contract bidding process) to let contracts with investment managers and investment advisers that have demonstrated expertise in managing, or advising the management of, large and diverse investment portfolios to render service in connection with CalSTRS' investment program.

2) Permits CalSTRS to specify the contract terms and conditions it solely deems necessary and prudent to contract for investment managers and investment advisers.

Background

CalSTRS manages retirement, disability and survivor benefits for full-time and part-time California public school educators. Like most state agencies, CalSTRS must follow state contracting requirements that require agencies to use the request for proposal process to solicit bids for goods and services. Under state contracting laws, agency staff must develop certain documentation; advertise and solicit bids through certain channels; address vendor questions through a certain process; and evaluate all candidate proposals. The state makes some exceptions to these requirements for certain agencies, such as the California Housing Finance Agency and the California Health Benefits Exchange Board.

According to CalSTRS, the length and complexity of the typical state contracting process slows CalSTRS' ability to replace contracted investment managers who are underperforming and makes it more difficult for CalSTRS to compete for top talent and therefore maximize CalSTRS investment performance.

Rather than soliciting bids via traditional means, CalSTRS intends to create an open and easy-to-use database in which investment managers and advisers would register themselves for CalSTRS' consideration with specified information. When CalSTRS determines it needs to contract for a service it could filter the database for qualified candidates. This process could reduce the time to contract from what currently takes 14-16 months to as little as three months.

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

SUPPORT: (Verified 8/5/21)

California State Teachers' Retirement System (source)

OPPOSITION: (Verified 8/5/21)

None received

ARGUMENTS IN SUPPORT: According to the sponsor, California State Teachers' Retirement System:

> This measure seeks to expand CalSTRS Collaborative Model, an investment strategy to reduce costs, control risks and increase expected returns by managing more assets internally and leverage external partners. It grants the Teachers' Retirement Board prudent flexibility to contract with investment managers and advisers under policies it adopts.
>
> The investment world is increasingly fast paced and competitive, with top-performing managers and advisers often having both their pick of partners and limited capacity. Conversely, CalSTRS operates under the umbrella of sometimes inapplicable and restrictive state procurement requirements when contracting for investment expertise. While CalSTRS expends significant time on this process, the landscape may change, costs may increase, and the circumstances driving favorable investments may disappear altogether.

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/18/21 14:27:33

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

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

THIRD READING

Bill No: AB 571
Author: Mayes (I)
Amended: 9/2/21 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-0, 6/17/21
AYES: Wiener, Bates, Caballero, Cortese, McGuire, Ochoa Bogh, Umberg, Wieckowski
NO VOTE RECORDED: Skinner

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 7/1/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/27/21 (Consent) - See last page for vote

SUBJECT: Planning and zoning: density bonuses: affordable housing

SOURCE: California Association of Realtors

DIGEST: This bill prohibits local governments from imposing affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, on a housing development's affordable units in a density bonus project.

Senate Floor Amendments of 9/2/21 move the provisions of this bill to a stand-alone section to prevent chaptering conflicts with other density bonus bills.

ANALYSIS:

Existing law:

1) Requires all cities and counties to adopt an ordinance that specifies how they will implement state DBL. Requires cities and counties to grant a density

bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

a) 10% of the total units of a housing development for lower income households;

b) 5% of the total units of a housing development for very low-income households;

c) A senior citizen housing development or mobile home park;

d) 10% of the units in a common interest development for moderate-income households;

e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons;

f) 20% of the total units for lower-income students in a student housing development.

2) Requires the city or county to allow an increase in density on a sliding scale from 20% to 50%, depending on the percentage of units affordable to low- and very low-income households, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. Requires the increase in density on a sliding scale for moderate-income for-sale developments from 5% to 50% over the otherwise allowable residential density.

3) Provides that the applicant shall receive a specified number of incentives or concessions depending on the percentage of units affordable to very low-, low-, and moderate income households.

4) Provides that, if permitted by a local ordinance, nothing shall be construed to prohibit a city, county or city and county from granting a density bonus greater than what is described in density bonus law for a development that meets the existing statutory requirements.

This bill prohibits local governments from imposing affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, on a housing development's affordable units in a density bonus project.

Background

Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. Density bonus law (DBL) allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of DBL is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy.

Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing. If one of these six options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a market rate developer gets density increases on a sliding scale based on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units, 20% density for 10% low-income units, and 5% additional density for moderate-income units. The maximum additional density permitted is 50% (in exchange for 15% very low-income units, 24% low-income units, and 44% moderate-income units). The developer also negotiates additional incentives and concessions, reduced parking, and design standard waivers with the local government. This helps developers reduce costs while enabling a local government to determine what changes make the most sense for that site and community.

Comments

1) *Fees and inclusionary ordinances*. Cities charge fees on housing developments of various sizes to cover the impact of the housing development on the community. Local governments may also adopt inclusionary housing ordinances that require a developer to include a percentage of affordable

housing on site, pay an in lieu fee to fund affordable housing elsewhere in the community, or dedicate land for affordable housing construction. DBL requires a developer to record 55-year covenants on the affordable housing units that qualify it for the density bonus. In some cases, local governments' inclusionary housing ordinances require affordability covenants that exceed 55 years.

This bill would preclude a local government from imposing affordable housing impact fees, including inclusionary zoning fees and in-lieu fees, on a housing development's affordable units in a density bonus project.

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

SUPPORT: (Verified 8/17/21)

California Association of Realtors (source)
American Planning Association, California Chapter
California Apartment Association
California Building Industry Association
Circulate San Diego
Livable California

OPPOSITION: (Verified 8/17/21)

Community Catalysts Preserving Local Control

ARGUMENTS IN SUPPORT: According to the author, "The state's Density Bonus Law has been underutilized for decades. Housing affordability continues to suffer and will not resolve if the trend to "kick the can down the road" persists. Impact and development fees significantly affect the overall cost of a project. These costs are often passed along to buyers in the form of higher home prices, especially in high demand markets. High impact and pre-development fees can also increase the amount of subsidy needed to build affordable housing units. It is time the state considers more concrete reductions in pre-development costs associated with the construction of affordable housing units in order to spur more development. AB 571 will prohibit imposing a housing affordability fee on deed restricted affordable units, as they are intended to be affordable to low, very low, and moderate-income families. It simply does not make sense to disincentive the construction of deed restricted affordable units within a density bonus application as we seek to encourage developers to make the maximum set aside possible within every application for a density bonus."

ARGUMENTS IN OPPOSITION: According to Community Catalysts Preserving Local Control, "Density bonus laws don't make sense and they don't meet the need for adequate housing that is affordable to low-income residents."

ASSEMBLY FLOOR: 75-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood
NO VOTE RECORDED: Maienschein, Mullin, Rendon

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
9/4/21 7:15:10

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

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

THIRD READING

Bill No: AB 602
Author: Grayson (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 7/1/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE HOUSING COMMITTEE: 9-0, 7/8/21
AYES: Cortese, Bates, Caballero, Eggman, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 76-0, 5/27/21 - See last page for vote

SUBJECT: Development fees: impact fee nexus study

SOURCE: Author

DIGEST: This bill adds new requirements to impact fee nexus studies prepared by cities, counties, and special districts, and makes other related changes.

ANALYSIS:

Existing law:

1) Allows local governments to require applicants for development projects to pay fees to mitigate the project's effects, known as mitigation fees.

2) Requires, under the Mitigation Fee Act, local officials that are establishing, increasing, or imposing a fee as a condition of approving a development project to:

   a) Identify the fee's purpose.

b) Identify the fee's use, including the public facilities to be financed.

c) Determine a reasonable relationship between the fee's use and the development.

d) Determine a reasonable relationship between the public facility's need and the development.

e) Determine a reasonable relationship between the fee's amount and the cost of the public facility.

f) Hold at least one open and public meeting prior to levying a new fee or increasing an existing one;

g) If they decide to adopt capital improvement plans, indicate the approximate location, size, time of availability, and estimates of cost for all facilities or improvements to be financed with the fees;

h) Deposit and spend the fees within five years of collecting them; and

i) Refund fees or make specific findings on when and how the fees will be spent for construction, if the fees aren't spent within five years of collection.

3) Requires local agencies to deposit mitigation fees to fund a capital improvement associated with a development in a separate account or fund.

4) Requires local agencies that impose mitigation fees to produce an annual report within 180 days of the end of the fiscal year that includes specified information.

5) Requires a city, county, or special district that has an internet website to post and update on their websites specified information, including a current schedule of housing development project costs, zoning ordinances and development standards, annual impact fee reports, and an archive of specified impact fee nexus studies.

This bill:

1) Requires a city, county, or special district to conduct and adopt a nexus study prior to the adoption of an impact fee, and follow certain standards and practices:

a) When applicable, identify the existing level of service for each public facility and any proposed new level of service, and include an explanation why the new level of service is appropriate.

b) Include information that supports the local agency's actions as specified.

c) If a nexus study supports a fee increase, review the original nexus study fee assumptions and evaluate the amount of fees collected under the original fee.

d) For nexus studies adopted after July 1, 2022, calculate the fee proportionately to the square footage of the proposed units, unless the local agency makes a finding that another standard is more appropriate as specified. If a local agency imposes a fee proportionate to the square footage, it shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development.

e) Adopt a capital improvement plan in jurisdictions located in counties with over 250,000 residents.

f) Adopt nexus studies at a public hearing with at least 30 days' notice, and provide notice to members of the public that request it as specified.

g) Update nexus studies every eight years, from the period beginning on January 1, 2022.

2) Provides that nothing in the bill shall be construed to relieve a local agency from requirements to comply with the Mitigation Fee Act, the California Constitution, or applicable case law when calculating fee amounts.

3) Allows a local agency to use the impact fee nexus study template the measure requires HCD to develop by January 1, 2024.

4) Provides that its provisions do not apply to water and sewer connection and capacity charges.

5) Provides that any member of the public can submit evidence that local agency findings are insufficient or the local agency failed to comply with specified requirements. The legislative body must consider any such evidence and can change or adjust the fee if they deem necessary.

6) Requires every city, county, or special district that has a website to post a written fee schedule or a link directly to the written fee schedule on its internet website.

7) Requires cities and counties to request from a development proponent, upon issuance of a certificate of occupancy or final inspection, whichever occurs last,

the total amount of fees and exactions associated with the project. The city or county must post this information on its internet website, and update it at least twice per year, but is not responsible for its accuracy. The city or county may also include a disclaimer regarding the accuracy of this information.

Background

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 7th, 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.

Consistent with previous studies by the Terner Center and others, the report found that fee transparency could be substantially improved. According to the study, many jurisdictions do not post their fee schedules or their nexus studies online, making it hard for developers to know their costs ahead of time. Meanwhile, other jurisdictions have adopted best practices, such as offering an estimate of the fees that a project would pay. 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 requires 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. The author wants to implement some of these recommendations to improve impact fee transparency.

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

According to the Senate Appropriations Committee:

- HCD estimates costs of $358,000 in the first two years for 2.0 PY of staff, and $178,000 annually ongoing for 1.0 PY of staff to coordinate with a contractor, create an impact fee nexus study template, develop a method of calculating housing feasibility at certain fee levels, and provide technical assistance to local agencies. (General Fund)

- HCD estimates additional one-time costs of approximately $300,000 for contracting with a specified entity to develop the template. (General Fund)

- Unknown, significant local costs for cities, counties, and special districts to comply with new requirements regarding the preparation and adoption of impact fee nexus studies, update fee nexus studies every eight years, and post specified information on local agency websites. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses. (local funds)

SUPPORT: (Verified 8/27/21)

Bay Area Council
California Association of Realtors
California Manufactured Housing Institute
California YIMBY
Casita Coalition
California Building Industry Association
California Housing Partnership
Council of Infill Builders
Generation Housing
Greenbelt Alliance
Habitat for Humanity California
Hello Housing
Housing Action Coalition
LISC San Diego
SPUR
SV@Home
The Two Hundred
TMG Partners

OPPOSITION: (Verified 8/27/21)

American Planning Association California Chapter
California Special Districts Association
California State Association of Counties
Catalysts for Local Control
City of Fremont
City of Oceanside
City of Torrance
League of California Cities
Riviera Homeowners Association
Rural County Representatives of California
Urban Counties of California

ARGUMENTS IN SUPPORT: According to the author, "Local jurisdictions levy development fees to pay for the services needed to support new housing and to offset the impacts of growth in a community. These fees can make up a substantial portion of the cost to build new housing in California cities. In a March 2018 report, UC Berkeley's Terner Center for Housing Innovation found that development fees can amount to anywhere from 6 percent to 18 percent of the median price of a home depending on location. In order for impact fees to be legally valid, they must comply with the rules and regulations established by the Mitigation Fee Act and be justified through the use of a 'nexus study' which illustrates the relationship between new development and its incremental impacts on infrastructure. In November of 2020, the Terner Center released a report which stressed the need for additional guidance on how local jurisdictions conduct nexus studies, which are currently governed by an opaque and informal patchwork of guidelines and common practices. AB 602 establishes basic transparency and accountability standards for nexus studies, and tasks the Department of Housing and Community Development (HCD) with developing a template for nexus studies that local governments can use."

ARGUMENTS IN OPPOSITION: According to a coalition of local government organizations, "While there has been progress with amendments to address our prior concerns, there are unfortunately two remaining issues for our organizations, both of which will create additional costs for the state and local agencies. Specifically, we are opposed to development of a nexus fee template by the Housing and Community Development Department (HCD). While HCD has extensive experience in funding housing and has occasionally provided grant funding to support infrastructure improvements on a project-by-project basis, the Department does not have expertise related to planning, building and funding

infrastructure at a community scale. Moreover, we note that the bill does not explicitly require the Department to consult with entities that have such experience. We also note that the Mitigation Fee Act extends beyond residential projects, to include commercial and industrial developments, which have very different infrastructure impacts and needs…Finally, we oppose the requirement for capital improvement planning, although it is now limited to 'large jurisdictions' as defined by Health and Safety Code Section 53559.1—that is, any county with a population of at least 250,000 or any city located therein, regardless of population. Much of the same additional informational value offered by the capital improvement planning process would be encompassed in a well-designed nexus study, especially if the other changes to nexus studies envisioned by AB 602 are enacted. We note that the study prepared pursuant to AB 879 (Grayson, 2018) identified more rigorous capital improvement planning as a best practice but included the caveat that the state should consider additional financial support to local agencies to support this heightened workload. This requirement would create additional costs for local agencies, which would most likely be passed on to development proponents in the form of higher fees."

ASSEMBLY FLOOR: 76-0, 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, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Petrie-Norris, Seyarto

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
8/31/21 9:31:09

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

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

THIRD READING

Bill No: AB 628
Author: Eduardo Garcia (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/28/21
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 69-5, 5/27/21 - See last page for vote

SUBJECT: Breaking Barriers to Employment Initiative

SOURCE: California Immigrant Policy Center
California Workforce Association
CROP Organization
PolicyLink

DIGEST: This bill makes changes to the Breaking Barriers to Employment Initiative (BBEI), administered by the California Workforce Development Board (CWDB), in order to 1) expand the purpose of the BBEI to include efforts for the retention of employment as well as efforts that enhance racial and economic justice; 2) expand the BBEI grant evaluation criteria; 3) require the CWDB to issue specified reports to the Legislature and the Governor on the BBEI; 4) expand the list of eligible populations which the BBEI can serve; and 5) expand the list of eligible activities which the BBEI grants can fund.

ANALYSIS:

Existing law:

1) Establishes the 45 member CWDB as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of

California's workforce system. (Unemployment Insurance Code §14010 et seq).

2) Establishes the BBEI, administered by the CWDB, which provides individuals with barriers to employment services to help enter, participate in, and complete broader workforce preparation, training, and education programs aligned with regional labor market needs. Program graduates should have the skills and competencies necessary to enter the labor market and earn wages that lead to self-sufficiency and economic security. (UI Code §14030 et seq.)

3) Specifies that the BBEI will accomplish its goals by providing supplemental funding and services at the local and regional level through collaborative partnerships between community based organizations (CBOs) and local workforce development boards (LWDBs). (UI Code §14031)

4) Authorizes the CWDB to develop policies to ensure that grants are awarded for activities consistent with the intent of the BBEI and specifies that eligible activities include, but are not limited to:

   a) English language improvement training.
   b) Basic skills and adult education.
   c) High school diploma and GED acquisition.
   d) Skills and vocational training.
   e) Earn and learn training.
   f) Industry certifications.
   g) Pre-apprenticeship programming. (UI Code §14035)

5) Defines "Individual with employment barriers" as an individual with any characteristic that substantially limits an individual's ability to obtain employment, as specified, including low-income individuals, among others. (UI Code §14005(j)).

6) Specifies that populations eligible to be served by BBEI grants include:

   a) Youth who are disconnected from the education system or employment.
   b) Women seeking training to move into nontraditional fields of employment.
   c) Displaced workers and long-term unemployed.
   d) Unskilled or under skilled, low-wage workers.
   e) Persons for whom English is not their primary language.
   f) Persons who are incarcerated or formerly incarcerated.

g) Armed services veterans.
h) Native Americans, immigrants, and migrants or seasonal farmworkers.
i) Persons with developmental or other disabilities.
j) Persons over 50 years of age who need retraining for in-demand skills.(UI Code §14034)

7) Requires that the CWDB administer the BBEI grant program and develop criteria for the selection of grant recipients that includes:

a) Providing outreach and technical assistance to prospective applicants, especially in rural and small population areas.
b) Ensuring that grants are awarded on a competitive basis and ensure that a range of targeted populations and geographic locations receive grants.
c) Applicant's and community-based organization's capacity to provide services to relevant target populations and provide evidence of this capacity. (Unemployment Insurance Code §14032)

This bill:

1) Removes a segment of the BBEI's mission relating to the provision of "supplemental funding and services to ensure the success of individuals either preparing to enter or already enrolled in workforce and education programs" and, instead, specifies that the initiative should focus on innovative approaches to addressing racial, ethnic, and socioeconomic disparities in the labor market.

2) Expands the BBEI characteristics to also include services delivered through labor-management partnerships and labor-community partnerships as well as employment social enterprises, and worker centers.

3) Specifies that outreach on the BBEI shall be provided to prospective applicants, especially for small community-based organizations, organizations without a preexisting relationship to the local workforce boards, and organizations serving rural and small population areas.

4) Requires the CWDB, when developing the criteria for the selection of grant recipients, to ensure that grant recipients have demonstrated experience working to ensure populations who have been historically disenfranchised from the labor market have access to quality jobs in their regions.

5) Expands the purpose of the BBEI from assisting individuals to gain employment to also include the retention of employment and states that the program should strive to address racial and ethnic exclusion and inequity in the labor force and enhance racial and economic justice. Also specifies that projects should create pipelines to quality jobs, upward mobility, and income security for workers historically excluded from quality jobs and economic prosperity.

6) Expands the BBEI grant evaluation criteria to include the:

    a) Ability for program participants to inform programming on an ongoing basis and evaluate program performance and success.
    b) The degree to which program activities acknowledge and address historic racial inequity and socioeconomic barriers to labor force participation for targeted population groups.
    c) The degree to which leadership at the executive level of the lead applicant organization reflects the target populations.
    d) The degree to which at least 25 percent of the lead applicant organization's staff reflects the target populations.

7) Specifies that applicants must provide all necessary information to the CWDB only, and not to local workforce development boards, for grant evaluation.

8) Requires the CWDB to issue an interim and a final report, as specified, that includes the programmatic impact on the target populations, the fiscal savings associated with the program, key conclusions, the benefits conferred or realized using quantitative and qualitative data, and policy recommendations to provide guidance to the Legislature and the Governor in scaling a permanent program.

9) Expands the list of eligible populations which the BBIE can serve to include:

    a) Persons who reside in cities that are disproportionately impacted by violence or are enrolled in violence prevention or mitigation programs.
    b) Persons who are victims of domestic violence or community violence.
    c) Population groups with disproportionate numbers of people living in ZIP Codes of concentrated poverty.
    d) Population groups that are disproportionately impacted by occupational segregation and who are underrepresented in jobs as defined by the

Department of Fair Employment and Housing in their enforcement of the CA Equal Pay Act.
e) Populations that have been disproportionately impacted by unemployment, job interruption, and displacement during the pandemic.
f) Persons diagnosed with autism.

10) Expands the list of eligible activities for grant funds to include:

a) Culturally and linguistically relevant academic enrichment, basic skills training and tutoring.
b) Income and language supports for trainees.
c) Entrepreneurial training and support for small business development.
d) Know-your-rights training.
e) Mental health services, trauma-informed care, and wraparound support services.
f) Employer education.

11) Deletes provisions in existing law which created the Breaking Barriers to Employment Initiative fund within the State Treasury.

Background

Breaking Barriers to Employment Initiative: In October 2017, the Legislature approved AB 1111 (E. Garcia, Chapter 824, Statutes of 2017), which established the Breaking Barriers to Employment Initiative. The purpose of the initiative is to create a grant program that provides individuals with barriers to employment the services they need to enter, participate in, and complete broader workforce preparation, training, and education programs aligned with regional labor market needs. The BBEI is intended to supplement existing workforce and education programs by providing services to ensure the success of individuals either preparing to enter or already enrolled in workforce and education programs. The BBEI program's aim is to provide services to target populations who are often not eligible for other state and federal programs. *Please see the policy committee analysis for more background information on the BBEI.*

Comments

Need for the bill? According to the author, "Before the pandemic, California's Unified Strategic Workforce Development Plan (State Plan) outlined a goal (2017 through 2027) to produce one million "middle-skill" industry valued and

recognized postsecondary credentials. In meeting this goal, the State Plan anticipates doubling the number of people enrolled in apprenticeship programs. This goal will not be achieved without ensuring California's most vulnerable populations are included the State's individuals in high-wage, high-growth careers. This focus is now more critical than ever, as low-wage jobs in accommodations and food service have suffered the highest rates of job loss, displacing families and individuals already at the greatest risk of sustained poverty.

This measure builds upon key objectives in the Breaking Barriers legislation and the State Plan by assisting individuals in obtaining the fundamental skills necessary to prepare for work in high priority industries identified in local and regional workforce development plans leverage multiple services to meet a worker's individual needs, and target people who face systemic barriers to employment. Moreover, the bill expands access and eligibility for community-based organizations to supply training and support services, and refocuses equity and access as priority measures of program success."

Related/Prior Legislation

AB 1111 (E. Garcia, Chapter 825, Statutes of 2017) established the BBEI for the purpose of assisting individuals who have multiple barriers to employment to receive the remedial education and work readiness skills that will help them to successfully participate in training, apprenticeship, or employment opportunities.

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

According to the Senate Appropriations Committee, SB 129 (a 2021-22 budget trailer bill) appropriates $30 million in General Fund discretionary funding to CWDB to continue administering the BBEI referenced in this bill; SB 129 was signed on July 12, 2021.

This bill's proposed changes to BBEI (which was originally funded at $15 million in 2018) would result in additional demand for grant dollars that would not have occurred absent the bill. Thus, even though BBEI is currently funded at a higher level in the 2021-22 budget, as specified, the bill would result in a General Fund cost pressure.

CWDB anticipates an annual staffing cost of $715,000 dollars per year to provide stakeholder input facilitation, programmatic implementation, grantee technical assistance, and post program evaluation.

SUPPORT: (Verified 8/26/21)

California Immigrant Policy Center (co-source)
California Workforce Association (co-source)
CROP Organization (co-source)
PolicyLink (co-source)
Alliance for Boys and Men of Color
American Association of University Women - California
Bay Area Council
California Association for Micro Enterprise Opportunity
California Edge Coalition
California Partnership to End Domestic Violence
Canal Alliance
Center for Employment Opportunities
Central Valley Immigrant Integration Collaborative
City and County of San Francisco
Communities United for Restorative Youth Justice
Consumer Attorneys of California
Council of California Goodwill Industries
Culturally Responsive Domestic Violence Network
Dowden and Associates; HR
Education and Leadership Foundation
Entrenous Youth Employment Services, Inc.
Fresno Barrios Unidos
Fresno Metro Black Chamber of Commerce
Goodwill of Silicon Valley
Immigrants Rising
Imperial County Wdb
Instituto De Educacion Popular Del Sur De California
Jewish Vocational Services, San Francisco Bay Area
Little Hoover Commission
Monument Impact
North Bay Leadership Council
Opportunity Junction
Pomona Economic Opportunity Center
Redf
Roadmap to Peace Initiative
Rubicon Programs
San Diego Workforce Partnership, Inc.
San Francisco Office of Economic & Workforce Development
Santa Cruz Barrios Unidos

Somali Family Services of San Diego
Sonoma County Black Coalition
Strength United
TechEquity Collaborative
Tipping Point Community
UFCW Local 770
Unite-LA, Inc.
Upwardly Global
Worksafe

OPPOSITION: (Verified 8/26/21)

None received

ARGUMENTS IN SUPPORT: A coalition of proponents, including the California Workforce Association, writes, "Through AB 628, communities will have the opportunity to develop a proposal that leverages the unique assets of CBOs to remove barriers to employment and address the specific needs of their community, with a focus on those most impacted by systemic labor market inequities. This initiative combines CBOs and Workforce Development Boards' power to harness their connections, reach, and resources to provide the education, training, and skills necessary for participants to move into apprenticeships, community colleges, career pathways, and employment"

ASSEMBLY FLOOR: 69-5, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Daly, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Megan Dahle, Davies, Kiley
NO VOTE RECORDED: Maienschein, Patterson, Smith, Voepel

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/31/21 9:31:11

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

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

THIRD READING

Bill No: AB 634
Author: Carrillo (D)
Amended: 8/31/21 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 6-2, 6/17/21
AYES: Wiener, Caballero, Cortese, McGuire, Umberg, Wieckowski
NOES: Bates, Ochoa Bogh
NO VOTE RECORDED: Skinner

ASSEMBLY FLOOR: 55-15, 5/24/21 - See last page for vote

SUBJECT: Density Bonus Law

SOURCE: County of Los Angeles

DIGEST: This bill allows a local government to require an affordability period longer than 55 years for units that qualify a developer for a density bonus, if the local government has an inclusionary housing ordinance that requires a percentage of residential units affordable to lower-income households for longer than 55 years.

Senate Floor Amendments of 8/31/21 move the provisions of the bill to a new, stand-alone code section to avoid conflicts with other density bonus bills.

ANALYSIS:

Existing law:

1) Requires all cities and counties to adopt an ordinance that specifies how they will implement state density bonus law (DBL). Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

a) 10% of the total units of a housing development for lower income households;

b) 5% of the total units of a housing development for very low-income households;

c) A senior citizen housing development or mobile home park;

d) 10% of the units in a common interest development for moderate-income households;

e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons;

f) 20% of the total units for lower-income students in a student housing development.

2) Requires the city or county to allow an increase in density on a sliding scale from 20% to 50%, depending on the percentage of units affordable to low- and very low-income households, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. Requires the increase in density on a sliding scale for moderate-income for-sale developments from 5% to 50% over the otherwise allowable residential density.
3) Provides that the applicant shall receive a specified number of incentives or concessions depending on the percentage of units affordable to very low-, low-, and moderate income households.

4) Requires an applicant for a density bonus to agree to the continued affordability of all very low- and low-income units for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage issuance program, or rental subsidy program. Rents shall be set at an affordable rent.

5) Provides that, if permitted by a local ordinance, nothing shall be construed to prohibit a city, county or city and county from granting a density bonus greater than what is described in DBL for a development that meets the existing statutory requirements.

This bill provides that, if permitted by a local ordinance, nothing shall be construed to prohibit a city or county from requiring an affordability period longer than 55 years for any units that qualify the applicant for a density bonus developed in compliance with a local inclusionary ordinance that requires that the development include a certain percentage of units for lower income households, as specified, and that will be financed without low-income housing tax credits.

Background

Density Bonus Law (DBL). Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of DBL is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy.

Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing. If one of these six options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a market rate developer gets density increases on a sliding scale based on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units, 20% density for 10% low-income units, and 5% additional density for moderate-income units. The maximum additional density permitted is 50% (in exchange for 15% very low-income units, 24% low-income units, and 44% moderate-income units). The developer also negotiates additional incentives and concessions, reduced parking, and design standard waivers with the local government. This helps

developers reduce costs while enabling a local government to determine what changes make the most sense for that site and community.

Comments

1) *Inclusionary ordinances*. Local governments adopt inclusionary housing ordinances that require a developer to include a percentage of affordable housing on site, pay an in lieu fee to fund affordable housing elsewhere in the community, or dedicate land for affordable housing construction. DBL requires a developer to record 55-year covenants on the affordable housing units that qualify it for the density bonus. In some cases, local governments' inclusionary housing ordinances require affordability covenants that exceed 55 years.

   This bill would allow a local government to require the units that qualify a developer for the award of the density bonus to be affordable for a period longer than 55 years if the local government has adopted an inclusionary ordinance requiring affordability covenants that exceed 55 years. This bill only allows these ordinances to apply to units that are not financed with LIHTC.

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

SUPPORT: (Verified 6/21/21)

County of Los Angeles (source)

OPPOSITION: (Verified 6/21/21)

Community Catalysts Preserving Local Control

ARGUMENTS IN SUPPORT: According to the author, "In order to ensure longer-term affordability on new housing developments, AB 634 will allow local governments to extend the affordability term for future units created under both local and state housing programs beyond 55 years. This bill will harmonize provisions between the State programs and local inclusionary housing ordinances and add a critical tool to help local governments address the shortage of affordable housing in California."

ARGUMENTS IN OPPOSITION: According to the Community Catalysts Preserving Local Control, this bill presents "another example of state over-reach into what local elected officials could do themselves" and that it "is a deep dive into the weeds of micro-management and bureaucracy."

ASSEMBLY FLOOR: 55-15, 5/24/21

AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, 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, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Chen, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Voepel

NO VOTE RECORDED: Arambula, Bigelow, Daly, Flora, Gray, Grayson, Mayes, Valladares

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
9/1/21 16:20:24

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

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

THIRD READING

Bill No: AB 653
Author: Waldron (R)
Amended: 8/26/21 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/29/21
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Medication-Assisted Treatment Grant Program

SOURCE: Author

DIGEST: This bill establishes the Medication-Assisted Treatment (MAT) Grant Program to fund MAT-related services for county jail inmates and individuals supervised by county probation departments.

ANALYSIS:

Existing law:

1) Establishes the MAT Re-Entry Incentive Program. (Pen. Code, § 3000.02, subd. (a).)

2) Specifies that a person is eligible for a 30-day reduction to the period of parole for every six months of treatment that is not ordered by the court, up to a maximum 90-day reduction, if the person meets all of the following requirements:

a) The person has been released from state prison and is subject to the jurisdiction of, and parole supervision by, the California Department Corrections and Rehabilitation (CDCR);
b) The person has been enrolled in, or successfully participated in, an institutional substance abuse program; and,
c) The person successfully participates in a substance abuse treatment program that employs a multifaceted approach to treatment, including the use of U.S. FDA approved medically assisted therapy, and, whenever possible, is provided through a program licensed or certified by the State Department of Health Care Services, including federally qualified health centers, community clinics, and Native American Health Centers. (Pen. Code, § 3000.02, subd. (b).)

3) Provides that the sentence reduction is contingent upon successful participation in treatment, as determined by the treatment provider. (Pen. Code, § 3000.02, subd. (c).)

4) Excludes from the MAT program individuals sentenced for or convicted of specified sex offenses. (Pen. Code, § 3000.02, subd. (d).)

5) Provides that operation of the MAT program is contingent upon the appropriation to the State Department of Health Care Services of funds received pursuant to a federal Substance Abuse and Mental Health Services Administration (SAMHSA) opioid use disorder or substance use disorder grant. (Pen. Code, § 3000.02, subd. (e)(1).)

6) Requires CDCR to collect data and analyze utilization and program outcomes. Requires this information to be included in an annual report. (Pen. Code, § 3000.02, subd. (e)(2).)

7) Requires CDCR to expand substance abuse treatment services in prisons to accommodate at least 4,000 additional inmates who have histories of substance abuse. Requires a substance abuse treatment program offered by CDCR to include a peer counseling component, except as specified. (Pen. Code, § 2694, subds. (a) & (b).)

8) Requires CDCR, under the oversight of the Undersecretary of Health Care Services, to establish a three-year pilot program at one or more institutions that will provide a medically assisted substance use disorder treatment model for treatment of inmates with a history of substance use problems. Requires the

program to offer a continuum of evidenced-based care that is designed to meet the needs of the persons being served and that is appropriate for a correctional setting. Requires CDCR to consider all of the following in establishing the program:

a) Access to services during an inmate's enrollment in the pilot program;
b) Access to subacute detoxification and medical detoxification, as necessary;
c) Comprehensive pretreatment and posttreatment assessments;
d) Ongoing evaluation of an inmate's program needs and progress at least every 90 days, and appropriate adjustment of treatment based on that evaluation;
e) Services provided by professionals for whom substance use disorder treatment is within the scope of their practice;
f) Referrals for medically assisted care and prescription of medication-assisted treatment;
g) Provision of behavioral health services, including the capacity to treat co-occurring mental illness;
h) Access to medication-assisted treatment throughout the period of incarceration up to and including immediately prior to release; and,
i) Linkages to community-based treatment upon parole. (Pen. Code, § 2694.5, subd. (a).)

9) Requires CDCR to provide an annual report to the Legislature on the pilot program through March 1, 2025. (Pen. Code, § 2694.5, subd. (b).)

This bill:

1) Establishes the MAT Grant Program and provides that it administered by the BSCC.

2) Requires the BSCC to award grants on a competitive basis to counties. Requires the BSCC to establish minimum standards, funding schedules, and procedures for awarding grants.

3) Provides that MAT Grant Program funds may be used by recipient counties for one or more of the following activities:

a) Salaries and related costs for the placement of substance use disorder counselors in county jails that provide MAT to inmates with a substance use disorder.

b) Doses of medication related to substance use disorder for inmates to take home upon release from county jail.
c) Funding for services provided pursuant to contracts between county jail health providers and narcotic treatment providers.
d) Mobile crisis teams of behavioral health professionals that can respond with law enforcement to mental health or other health crisis calls. Provides that mobile response activities include referrals for substance use disorder treatment and MAT for individuals under criminal justice supervision when clinically appropriate.
e) Salary and related costs for providing MAT for persons who are under criminal justice supervision.
f) Funding to increase capacity for community-based, MAT and substance use disorder treatment services for justice-involved individuals, or to improve care coordination and connections to MAT services upon release from correctional facilities. Provides that activities may include, but are not limited to, capital expenditures or operating costs to establish new reentry centers or treatment programs that will serve justice-involved populations, expansion of existing community-based, MAT services to better meet the needs of justice-involved individuals, and other strategies to ensure timely and appropriate access to MAT upon release.

4) Prohibits MAT Grant Program funds from being used to supplant existing resources for MAT services delivered in county jails or in the community.

5) Requires counties that receive grants to collect and maintain data pertaining to the effectiveness of the program, as indicated by the BSCC in the request for proposals, including data on drug overdoses of, and the rate of recidivism for, inmates and persons under criminal justice supervision who receive county-administered, MAT services.

6) Provides that information relating to the rate of recidivism includes all of the following, as they relate to inmates or persons under criminal justice supervision who receive services funded by the MAT Grant Program:

   a) The number and percentage who were sentenced to jail or prison within three years after being released from a jail sentence in which they were provided services funded via the grant program, or for persons under criminal justice supervision, after having been provided with services that were funded via the grant program;

b) The number and percentage who were convicted of a misdemeanor or a felony within three years after being released from a jail sentence in which they were provided services funded via the grant program, or for persons under criminal justice supervision, after having been provided with services that were funded via the grant program; and,
c) The number and percentage who were arrested for a crime or who have had their parole, probation, mandatory supervision, or postrelease community supervision revoked within three years after being released from a jail sentence in which they were provided services funded via the grant program, or for persons under criminal justice supervision, after having been provided with services that were funded via the grant program.

7) Requires a county that receives a grant to include recidivism data for persons released from jail, or under criminal justice supervision, who received services less than three years prior to any reporting period established by the BSCC.

8) Specifies that a county that receives a grant may use state summary criminal history information, or local summary criminal history information, to collect data as required by the BSCC.

9) Provides that the BSCC may establish a deadline by which counties that receive grants are required to submit data to the board to enable the board to comply with its reporting requirement.

10) Provides that the BSCC may use up to 5% of the funds appropriated for the program each year for the costs of administering the program.

11) Requires that on or before July 1, 2025, the BSCC compile a report describing the activities funded via the grant program, and the success of those activities in reducing drug overdoses and recidivism by jail inmates and persons under criminal justice supervision. Requires the report to be submitted to the Legislature.

12) Defines “criminal justice supervision” as “probation, postrelease community supervision, and mandatory supervision.”

13) Defines “medication-assisted treatment” as “the use of United States Food and Drug Administration approved medically assisted therapy to treat a substance use disorder, including opioid use disorder and alcohol use disorder, and that,

whenever possible, is provided through a program licensed or certified by the State Department of Health Care Services."

14) Provides that the provisions of this bill are only operative to the extent that funding is provided, by express reference, in the annual Budget Act or another statute.

15) Establishes a sunset date of January 1, 2026.

Background

Medication-assisted treatment (MAT) is a "whole-patient" approach to treating substance use disorders that uses medication in combination with counseling and behavioral therapies. MAT is clinically effective in treating substance use disorders, including opioid and alcohol use disorders. Medications used in MAT are approved by the Food and Drug Administration (FDA), and MAT programs are clinically driven and tailored to meet each patient's needs. The Substance Abuse and Mental Health Services Administration (SAMHSA) within the U.S. Department of Health and Human Services describes the mechanics of MAT:

> MAT is primarily used for the treatment of addiction to opioids such as heroin and prescription pain relievers that contain opiates. The prescribed medication operates to normalize brain chemistry, block the euphoric effects of alcohol and opioids, relieve physiological cravings, and normalize body functions without the negative effects of the abused drug. (https://www.samhsa.gov/medication-assisted-treatment)

MAT has been shown to improve patient survival, increase retention in treatment, decrease illicit opiate use and other criminal activity among people with substance use disorders, increase patients' ability to gain and maintain employment, and improve birth outcomes among women who have substance use disorders and are pregnant. (*Id*.) Following release from incarceration, individuals with opioid use disorders are at a significant risk of relapse and overdose.

AB 1304 (Waldron, Chapter 325, Statutes of 2020) established the California MAT Re-Entry Incentive Program which created a reduction in parole time for a person who had been enrolled in or successfully participated in a substance abuse program while incarcerated and participation in the program was not court-ordered. While AB 1304 focused on MAT for parolees, this bill funds MAT-related services for

county jail inmates and individuals supervised by county probation departments, including those on probation, post-release community supervision, or mandatory supervision, via a competitive grant program.

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

According to the Senate Appropriations Committee:

1) Unknown, potentially-major cost pressures, likely in the millions of dollars, to fund the MAT Grant Program. (General Fund)

2) Due to the unknown size the of the grant program, the Board of State and Community Corrections estimates costs of $505,000 in the first year for 1.0 Field Representative, 1.0 Associate Governmental Program Analyst, 0.5 Research Data Specialist II, travel, supplies, and indirect costs to implement and administer the program. The board anticipates costs of $490,000 to administer the grant program annually thereafter. (General Fund)

3) Unknown, potentially-significant workload cost pressures to the Department of Justice related to a potential in increased litigation related to medical malpractice claims associated resulting from this measure. (Special fund- Legal Services Revolving Fund)

SUPPORT: (Verified 8/26/21)

Alkermes
California Consortium of Addiction Programs and Professionals
California State Sheriffs' Association
County Behavioral Health Directors Association of California
County of San Diego
Steinberg Institute

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia,

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

Prepared by: Stephanie Jordan / PUB. S. /
8/31/21 9:31:13

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

SENATE RULES COMMITTEE AB 749
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 749
Author: Nazarian (D)
Amended: 8/26/21 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/10/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

SUBJECT: Skilled nursing facilities: medical director certification

SOURCE: California Association of Long Term Care Medicine

DIGEST: This bill prohibits a skilled nursing facility from contracting with a person as a medical director if the person is not, or will not be within five years, certified by the American Board of Post-Acute and Long-Term Care Medicine (ABPLM) as a Certified Medical Director.

ANALYSIS:

Existing law:

1) Provides for the licensure of health facilities, including long-term care (LTC) facilities such as skilled nursing facilities (SNFs), intermediate care facilities, and congregate living health facilities, by the California Department of Public Health (CDPH). [HSC §1250, et seq.]

2) Defines a "SNF" as a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. [HSC §1250(c)]

3) Requires SNFs to have a medical director who is responsible for standards, coordination, surveillance and planning for improvement of medical care in the facility. Requires the medical director to do the following:

   a) Act as a liaison between administration and attending physicians;
   b) Be responsible for reviewing and evaluating administrative and patient care policies and procedures;
   c) Act as consultant to the director of nursing service in matters relating to patient care services; and,
   d) Be responsible for reviewing employees' preemployment and annual health examination reports. [CCR Title 22, §72305]

This bill:

1) Prohibits an SNF from contracting with a person as a medical director if the person is not, or will not be within five years of the date of initial hire, certified by the ABPLM, or an equivalent organization as determined by CDPH, as a Certified Medical Director.

2) Requires a medical director already employed in an SNF as of January 1, 2022, to have until January 1, 2027 to become a Certified Medical Director.

3) Requires an SNF to submit to CDPH specified information on the medical director on an initial application including resume, whether the medical director is certified by the ABPLM or an equivalent organization, or if not, the expected date of certification.

4) Requires an SNF to notify CDPH of any changes in its medical director by submitting a specified form, a resume, and proof of certification or progress toward certification for its medical director within 10 calendar days of those changes.

5) Requires all SNFs to report to CDPH the name and certification status of the facility's medical director by submitting a specified form, a resume, and proof of certification or progress toward certification no later than June 30, 2022.

6) Exempts SNFs that are operated as a distinct part of an acute care hospital the provisions in 1) through 5) above.

7) Requires SNFs that are operated as a distinct part of an acute care hospital to designate a qualified physician as a medical director who is responsible for standards, coordination, surveillance, and planning for improvement of medical care in the facility, and defines "qualified physician," for purposes of this requirement, as either of the following:

   a) The physician is certified, or pursuing certification, by the ABPLM as a Certified Medical Director; or,
   b) The physician is board certified in a medical specialty consistent with the type of care provided in the SNF, including, but not limited to, physical medicine and rehabilitation or pulmonology, and whose role as the medical director of the SNF has been reviewed and approved by the hospital's leadership.

8) Sunsets the provisions of this bill on January 1, 2032.

Comments

1) *Author's statement.* According to the author, while coronavirus is responsible for the high numbers of fatalities in SNFs, the underlying causes that allowed for the inordinate number of deaths amongst residents and staff have been evident and documented for decades. SNFs are required to contract with Medical Directors for facilities of any size. Medical directors have backgrounds and are trained as physicians. However, additional training and education through certification will provide what is needed to best provide care in skilled nursing settings. Certification for Medical Directors of SNFs is focused on care needs of those that are elderly and/or disabled. A better understanding of all aspects or elderly care will improve care. Staffing, infection protocols, familial isolation and care standards are not necessarily a focus of general medical education. Certification of SNF medical directors strengthens the foundation needed to deliver better care. An enhanced understanding of medical care needs, staffing ratios, the psychology of aging and geriatric specific care comes through certification.

2) *Impact of COVID-19 in California SNFs and long-term care facilities.* According to CDPH's COVID-19 SNF Data Dashboard, as of June 3, 2021, in California's 1,223 SNFs, there have been 61,524 positive COVID-19 cases among residents and 9,060 resident deaths. There have been 50,939 positive

cases in health care workers (HCWs) and 229 HCW deaths. The Kaiser Family Foundation also maintains a data dashboard of the impact of COVID-19 on LTC facilities, which is a broader category than just SNFs. According to the Kaiser Family Foundation, as of May 24, 2021, there were 2,188 LTC facilities in California with known cases of COVID-19. Within those facilities, there were 154,834 cases of COVID-19, and 13,020 deaths. Deaths in LTC facilities account for 21% of the total COVID-19 deaths in California.

3) *ABPLM certification.* According to its website, the ABPLM, formerly the American Medical Directors Association (AMDA) Certified Medical Director Program, was developed by the AMDA in 1991, after three years of research and development using surveys, consensus conferences, and experts to define the core skills and knowledge necessary for effective medical direction. The non-profit organization administers the certified medical director program, and has certified more than 4,000 physician medical directors since its inception. The certification process requires all applications to take the Core Curriculum, which includes the AMDA Core Curriculum on Medical Direction (29 hours of accredited educational credits, online and on demand for $1,795 for AMDA members, or $1,995 for non-members) and the AMDA Core Synthesis (17.5 hours of accredited educational credits, online for under $795 for members, and $1,095 for non-members). In addition to completing AMDA's Core Curriculum, there are clinical experience and education requirements, and medical management experience and education requirements, with a various pathways depending on the type and length of experience, and the type of education pursued. Once all requirements are obtained, there is a $525 certification application fee for members, and $625 for non-members. Certification lasts for six years, after which there is a recertification process.

   The AMDA commissioned a study on the effectiveness of the ABPLM certification program, published in the Journal of the American Medical Association in July of 2009, entitled "Impact of Medical Director Certification on Nursing Home Quality of Care." This study compared citations issued by regulators on areas of quality thought to be impacted by the medical director, weighted by the scope and severity level. They compared citations issued at 547 nursing homes led by certified medical directors, and 15,230 homes led by medical directors without certification. When nursing facility characteristics were added to the regression analysis equation, the presence of a certified medical director accounted for up to a 15% improvement in quality.

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

According to the Senate Appropriations Committee, CDPH Centralized Applications Branch will need 1.25 full-time equivalent Associate Governmental Program Analysts to handle this increased at an annual estimated cost of $166,250 (Licensing and Certification Fund).

SUPPORT: (Verified 08/26/2021)

California Association of Long Term Care Medicine (source)
AARP
California Advocates for Nursing Home Reform
California Alliance for Retired Americans
California Association of Health Facilities
California Commission on Aging
California Long-term Care Ombudsman Association
Consumer Attorneys of California
Save Our Seniors Network
The Geriatric Circle

OPPOSITION: (Verified 08/26/2021)

None received

ARGUMENTS IN SUPPORT: The California Association of Long Term Care Medicine (CALTCM), is the sponsor of this bill and states that the COVID-19 Pandemic has been particularly devastating to older adults living in LTC. One quarter of California's COVID deaths have occurred in LTC and many of these deaths could have been prevented by engaging nursing home medical directors with the necessary training. CALTCM states that today's nursing homes are mini hospitals. Medical directors should therefore have all of the tools and preparation needed to be an active and effective member of the nursing home leadership team. The seminal study by Rowland in 2009, "Impact of Medical director Certification on Nursing Home Quality of Care," demonstrated that certified medical directors in nursing facilities are an independent predictor of quality in U.S. nursing homes. Yet California currently requires no qualifications for medical directors beyond an active medical license, despite the job's complex issues and some unscrupulous corporations often hire medical directors who lack qualifications to provide the necessary expertise. CALTCM contends that we can no longer wait in hope and expectation that the industry will require nursing home medical directors to be certified, and states that this bill sets critical, minimal training requirements for medical directors by requiring nursing home medical directors to be certified by

ABPLM within five years of commencing work as a medical director. CALTCM concludes that certified medical directors understand how to be effectively engaged as members of the SNF leadership team and this has a multiplier effect on enhancing the value of all members of the clinical team.

The California Association of Health Facilities also supports this bill, stating that it supports efforts to build the knowledge and expertise of all staff in order to provide high quality of care to residents at SNFs, and looks forward to working with the author to establish opportunities for medical directors to secure grant funding or financial support to cover the costs of the certification.

Numerous other organizations support this bill, including the California Long-Term Care Ombudsman Association, which states they have first-hand accounts of residents requesting assistance of medical directors who turn out to be ill-informed of the regulations specific to licensed SNFs.

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
9/3/21 10:47:20

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

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

THIRD READING

Bill No: AB 779
Author: Bigelow (R), et al.
Introduced: 2/16/21
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 7/13/21
AYES: Bradford, Ochoa Bogh, Durazo, Skinner
NO VOTE RECORDED: Kamlager

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire
NO VOTE RECORDED: Kamlager

ASSEMBLY FLOOR: 70-3, 4/19/21 - See last page for vote

SUBJECT: Peace officers: deputy sheriffs

SOURCE: San Mateo County Sheriff's Office

DIGEST: This bill adds the Counties of Del Norte, Madera, Mono, and San Mateo to the list of specified counties that employ deputy sheriffs to perform duties exclusively or initially related to custodial assignments, including the custody, care, supervision, security, movement, and transportation of inmates, and are peace officers whose authority extends to any place in the state only while engaged in the performance of duties related to his or her employment.

ANALYSIS:

Existing law:

1) Provides that any deputy sheriff of the Counties of Los Angeles, Butte, Calaveras, Colusa, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Mariposa, Mendocino, Plumas, Riverside, San Benito, San Diego, San Luis Obispo, Santa Barbara, Santa Clara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, and Yuba who is

employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in California only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to custodial assignments or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency. (Pen. Code, § 830.1 subd. (c).)

2) Provides that all cities and counties are authorized to employ custodial officers who are public officers but not peace officers for the purpose of maintaining order in local detention facilities. Custodial officers under this section do not have the right to carry or possess firearms in the performance of his or her duties. However, custodial officers may use reasonable force to establish and maintain custody and may make arrests for misdemeanors and felonies pursuant to a warrant. (Pen. Code, § 831.)

3) Provides that notwithstanding existing law, law enforcement agencies in counties with a population of 425,000 or less and the Counties of San Diego, Fresno, Kern, Napa, Riverside, Santa Clara, and Stanislaus may employ custodial officers with enhanced powers. The enhanced powers custodial officers are empowered to serve warrants, writs, or subpoenas within the custodial facility and, as with regular custodial officers, use reasonable force to establish and maintain custody. (Pen. Code, § 831.5, subd. (a).)

4) Provides that prior to the exercise of peace officer powers, every peace officer shall have satisfactorily completed the Commission on Peace Officers Standards and Training (POST) course. (Pen. Code, § 832 subd. (b).)

5) Provides that the enhanced powers custodial officers may carry firearms under the direction of the sheriff while fulfilling specified job-related duties such as while assigned as a court bailiff, transporting prisoners, guarding hospitalized prisoners, or suppressing jail riots, escapes, or rescues. (Pen. Code, § 831.5 subd. (b).)

6) Provides that enhanced powers custodial officers may also make warrantless arrests within the facility. (Pen. Code, § 831.5 subd. (f).)

7) Requires a peace officer to be present in a supervisorial capacity whenever 20 or more custodial officers are on duty. (Pen. Code, § 831.5 subd. (d).)

8) Provides that custodial officers employed by the Santa Clara County, Napa County, and Madera DOC's are authorized to perform the following additional duties in the facility:

   a) Arrest a person without a warrant whenever the custodial officer has reasonable cause to believe that the person to be arrested has committed a misdemeanor or felony in the presence of the officer that is a violation of a statute or ordinance that the officer has the duty to enforce;

   b) Search property, cells, prisoners, or visitors;

   c) Conduct strip or body cavity searches of prisoners as specified;

   d) Conduct searches and seizures pursuant to a duly issued warrant;

   e) Segregate prisoners; and,

   f) Classify prisoners for the purpose of housing or participation in supervised activities. (Pen. Code, § 831.5 subds. (g), (h) & (i).)

9) States that it is the intent of the Legislature, as it relates to Santa Clara, Madera, and Napa Counties, to enumerate specific duties of custodial officers and to clarify the relationship of correctional officers and deputy sheriffs in Santa Clara County. And, that it is the intent of the Legislature that all issues regarding compensation for custodial officers remain subject to the collective bargaining process. The language is, additionally, clear that it should not be construed to assert that the duties of custodial officers are equivalent to the duties of deputy sheriffs or to affect the ability of the county to negotiate pay that reflects the different duties of custodial officers and deputy sheriffs. (Pen. Code, § 831.5 subd. (j).)

10) Provides that every peace officer shall satisfactorily complete an introductory course of training prescribed by POST and that, after July 1, 1989, satisfactory completion of the course shall be demonstrated by passage of an appropriate examination developed or approved by POST. (Pen. Code, § 832 subd. (a).)

11) Provides that prior to the exercise of peace officer powers, every peace officer shall have satisfactorily completed the POST course. (Pen. Code, § 832 subd. (b).)

12) Provides that a person shall not have the powers of a peace officer until he or she has satisfactorily completed the POST course. (Pen. Code, § 832 subd.(c).)

13) Provides that any person completing the POST training who does not become employed as a peace officer within three years from the date of passing the examination, or who has a three-year or longer break in service as a peace officer, shall pass the examination prior to the exercise of powers as a peace officer. This requirement does not apply to any person who meets any of the following requirements (Pen. Code, § 832 subd. (e)(1).):

    a) Is returning to a management position that is at the second level of supervision or higher (Pen. Code, § 832 subd. (e)(2)(A).);

    b) Has successfully requalified for a basic course through POST (Pen. Code, § 832 subd. (e)(2)(B).);

    c) Has maintained proficiency through teaching the POST course (Pen. Code, § 832 subd (e)(2)(C).);

    d) During the break in California service, was continuously employed as a peace officer in another state or at the federal level (Pen. Code, § 832 subd. (e)(2)(D).); and,

    e) Has previously met the testing requirement, has been appointed a peace officer under Penal Code Section 830.1(c), and has continuously been employed as a custodial officer as defined in Penal Code Section 831 or 831.5 since completing the POST course. (Pen. Code, § 832 subd. (e)(2)(E).).

This bill adds Del Norte, Madera, Mono and San Mateo Counties to the list of specified counties within which deputy sheriffs assigned to perform duties exclusively or initially relating to specified custodial assignments are peace officers whose authority extends to any place in California while engaged in the performance of the duties of his or her respective employment.

Background

Penal Code Section 830.1 subd. (c) custodial deputy sheriffs classification is part of a continuum of classifications of custodial officers in county jails and other local detention facilities. Custodial officers under Penal Code §§ 831 and 831.5 are not peace officers, whereas a Penal Code Section 830.1 subd. (c) custodial deputy sheriff is a peace officer, "who is employed to perform duties exclusively or initially relating to custodial assignments." (Penal Code § 830.1 subd. (c).) One of the most significant differences between the Penal Code Section 830.1 subd. (c) custodial deputy sheriffs and Penal Code Sections 831 and 831.5 custodial officers is that as "peace officers" the Penal Code Section 830.1(c) custodial deputy

sheriffs are granted all the rights and protections contained in the Public Safety Officers Procedural Bill of Rights Act. (Government Code § 3301 et seq.)

All counties may utilize Penal Code Section 831 non-peace officer custodial officers; however, these officers may not carry firearms. (Penal Code § 831 subd. (b).) However, there are limitations on the authority and use of Penal Code Section 831.5 custodial officers. For example, Penal Code Section 831.5 custodial officers may not perform strip searches (unless they are employed in Santa Clara County, Napa County, or Madera County), have limited arrest powers, and are limited in their "armed duty" roles. Another limitation on the use of both Penal Code Section 831 and 831.5 non-peace officer custodial officers is that whenever 20 or more of such officers are on duty there must be at least one Penal Code Section 830.1 peace officer, who has received the full 664-plus hour basic training for Penal Code Section 830.1(a) deputy sheriffs, on duty at the same time to supervise the custodial officers. (Penal Code §§ 831 subd. (d) and 831.5 subd, (d).)

The custodial deputy sheriffs granted authority under this bill are limited in their authority as a peace officer "only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency." (Pen. Code, § 830.1, subd. (c).)

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

According to the Senate Appropriations Committee, unknown, additional reimbursable state-mandated costs potentially in the hundreds of thousands of dollars annually. Although prior mandate reimbursements, POBOR I and POBOR II, have been deferred for several years, any costs incurred by the state due to this measure would be added to the approximately $110.3 million owed through FY 2019-2020. (General Fund)

On March 9, 2021, the Del Norte County Board of Supervisors adopted Resolution 2021-017 that "supports [AB] 779 and is requesting the addition of Del Norte County to Penal Code Section 830.19(c)." Similarly, on March 16, 2021, the Mono County Board of Supervisors adopted Resolution R21-19 that "supports [AB] 779 and is requesting the addition of Mono County to Penal Code 830.1(c)." Existing law provides that the Commission on State Mandates is to not find state-mandated costs when a "local agency … that requests or previously requested legislative authority for that local agency … to implement the program specified in the statute, and that statute imposes costs upon that local agency … requesting the legislative authority." (Gov. Code, § 17556, subd. (a).)

SUPPORT: (Verified 8/26/21)

San Mateo County Sheriff's Office (source)
California State Sheriffs' Association
Del Norte County Board of Supervisors
Del Norte County Sheriff's Employee Association
Del Norte County Sheriff's Office
Madera County
Madera County Board of Supervisors
Madera County Correctional Officers Association
Madera County Deputy Sheriff's Association
Madera County Sheriff's Office
Mono County Board of Supervisors
Mono County Deputy Sheriffs Association
Mono County Public Safety Officers Association
Mono County Sheriff's Office
Peace Officers Research Association of California
San Mateo County Board of Supervisors
San Mateo County Deputy Sheriff's Association

OPPOSITION: (Verified 8/26/21)

California Attorneys for Criminal Justice

ARGUMENTS IN SUPPORT: According to the California State Sheriffs' Association:

> Existing law, Penal Code Section 830.1(c), provides that any deputy sheriff in 32 specified counties who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency. AB 779 adds the Counties of Del Norte, Madera, Mono, and San Mateo to PC 830.1(c) to give them more flexibility to address their custodial supervision needs.

ARGUMENTS IN OPPOSITION: According to California Attorneys for Criminal Justice:

> In an era where the unnecessary application of deadly force by peace officers has caused so much societal harm as to necessitate the passage of AB 1506 and like bills to increase peace officer accountability in last year's session, CACJ finds that handing out concealed carry privileges to officers that may or may not have received the same biennial training required of armed civilians is antithetical to sound legislative policy. Maintaining the requirement for the custodial officers of Del Norte, Madera, Mono, and San Mateo to obtain a license to carry concealed before doing so off-duty will enhance public safety through the likelihood of responsible carry through specific biennial training. To diminish the potential for irreparable harm to the citizens of this state by adding to the numbers of those who carry concealed untethered to the safety requirements of Penal Code section 26150, CACJ strongly Opposes AB 779.

ASSEMBLY FLOOR: 70-3, 4/19/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, 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, Kiley, Lackey, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Valladares, Villapudua, Voepel, Waldron, Ward, Wood, Rendon
NOES: Lee, Levine, Stone
NO VOTE RECORDED: Kalra, Mayes, Reyes, Ting, Akilah Weber, Wicks

Prepared by: Gabe Caswell / PUB. S. /
8/28/21 11:14:25

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

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

THIRD READING

Bill No: AB 787
Author: Gabriel (D), et al.
Amended: 8/31/21 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 9-0, 7/8/21
AYES: Cortese, Bates, Caballero, Eggman, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Planning and zoning: housing element: converted affordable housing units

SOURCE: California Community Housing Agency

DIGEST: This bill authorizes cities and counties to receive credit toward their lower income regional housing need allocation (RHNA) for market rate units that are converted to deed-restricted housing affordable to moderate income households, as specified.

Senate Floor Amendments of 8/31/21 specify that converted units may not exceed 25% of need in the moderate income RHNA category.

ANALYSIS:

Existing law:

1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community.

2) Provides that each community's fair share of housing be determined through the RHNA process, which is composed of three main stages: (a) the Department of Finance and the Department of Housing and Community Development (HCD) develop regional housing needs estimates; (b) councils of government (COGs) allocate housing within each region based on these estimates; and (c) cities and counties incorporate their allocations into their housing elements.

3) Requires each city and county to submit an annual progress report (APR) to HCD and the Office of Planning and Research specified information, including its progress in meeting its RHNA share. Requires HCD to post APRs on its website within a reasonable time of receiving them. Authorizes a court, if it finds that a city or county failed to submit a substantially compliant APR within 60 days of the statutory deadline, to issue an order or judgment to compel compliance within 60 days. Authorizes the court to grant sanctions for further failure to comply, as specified.

4) Allows a city or county to meet up to 25% of its RHNA obligation in any income category through "committed assistance" – specifically, the local government commits to providing units at housing costs or rents that are affordable to low- or very low-income households. Establishes a number of conditions on this authority, including that the units constitute a net increase in the community's stock of housing affordable to low- or very low-income households; the units have long-term affordability covenants and restrictions; and the units were not provided with committed assistance in the prior planning period.

This bill:

1) Authorizes a city or county, for up to 25% of its moderate income RHNA in its APR, to include the number of units in an existing multifamily building that were converted to deed-restricted housing for moderate income households through affordability covenants and restrictions on the units. Requires the APR to clearly indicate that these units were not newly constructed and to provide all relevant project- and unit-level information pursuant to existing APR requirements.

2) Authorizes a unit to be reported as a converted unit only if all of the following apply:

a) The rent for the unit prior to conversion was not affordable to low-, very low-, or moderate-income households.

b) The unit is subject to a long-term recorded regulatory agreement with a public entity that requires the unit to be affordable to, and occupied by, individuals of moderate income for a term of 55 years.

c) The initial post-conversion rent for the unit is at least 10% less than the average monthly rent charged over the 12 months prior to conversions.

d) The unit is in decent, safe, and sanitary condition at the time of occupancy following the conversion.

e) The unit was not acquired by eminent domain as part of the conversion.

f) The units is subject to a governmental monitoring program to ensure continued affordability and occupancy by qualified households.

g) Unless the development is subject to a regulatory agreement with the California Tax Credit Allocation Committee, a public entity shall hold an assignable right to purchase the development, or any interest in a partnership that owns the development, for a price not exceeding the principal amount of outstanding indebtedness secured by the building and all federal, state, and local taxes attributable to the sale.

3) Authorizes a city or county to reduce its RHNA share on a unit-for-unit basis for any units converted between the beginning of the housing element period and the deadline for adoption of the housing element. Specifies that this authorization only applies if the reduction does not exceed 25% of need in the moderate income category.

4) Authorizes HCD to delay implementation of this bill until January 1, 2023, but authorizes localities to report units converted on or after January 1, 2022.

Background

Existing law requires every city and county to prepare a housing element as part of its general plan. This is done every eight years by local governments located within the territory of an MPO and every five years by local governments in rural non-MPO regions. Each community's fair share of housing is determined through the RHNA process, which is composed of three main stages: (1) the Department of Finance and HCD develop regional housing needs estimates; (b) COGs allocate

housing within each region based on the estimates; and (c) cities and counties incorporate their allocations into their housing elements. The housing element must contain an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period and are sufficient to provide for the locality's share of the regional housing need for all income levels. Each jurisdiction must submit an APR to HCD by April 1st of each year that documents its progress toward meeting its RHNA allocation and the plans outlined in its housing element.

Comments

1) *Committed assistance: low- and very low-income units.* Existing law allows a city or county that met its RHNA obligation in the prior planning period, to meet up to 25% of its obligation in the next period through "committed assistance" – essentially, rehabilitation and preservation of existing market-rate units into units that are affordable to low- and very low-income households. Since the purpose of RHNA is to identify a locality's capacity to meet its housing need by identifying development for new housing units, this exception was intentionally written to be used only narrow circumstances. Specifically, in order to count the units in its inventory of adequate sites, a city or county must enter into a legally enforceable agreement, within three years of the start of its housing element period, that obligates funds or in-kind services for the affordable units. The units must have long-term affordability covenants. Once the units are converted, the city or county may count them toward its low- or very low-income RHNA share and report them in its APR. Legislation last year (AB 83, Committee on Budget, Chapter 15, Statutes of 2020) authorized cities and counties to now count these units even if they did not identify them as part of their adequate sites inventory at the beginning of the housing element period, as long as all other committed assistance requirements are met. If the local government fails to enter into an enforceable agreement for all the units identified in its adequate sites inventory within the three-year period, it must adopt an amended housing element identifying additional adequate sites sufficient to accommodate the number of units for which committed assistance was not provided.

2) *New method: moderate income units.* This bill creates a new, parallel method under which cities and counties could get credit for converted or rehabilitated units at the moderate income level. Unlike the existing committed assistance requirement, a locality could count these units even if it did not commit local funding toward the conversion. To address concerns about incentivizing

conversions over new construction, this bill only allows 25% of converted units to be counted toward the RHNA share. The author states that allowing jurisdictions to report additional converted units in their APRs will help incentivize them to facilitate more conversions, thereby creating more moderate income units to help address the state's housing crisis.

3) *Appropriations amendments*. The author amended this bill in the Senate Appropriations Committee to limit it to moderate income units, in order to avoid confusion with the existing committed assistance option for conversion of lower income units; eliminate provisions related to housing elements, in order to ensure that the bill does not affect housing element compliance; cap the RHNA credit a jurisdiction may receive for conversions under this bill at 25%, to protect against a jurisdiction attempting to meet its entire moderate income RHNA through conversions; and authorize HCD to delay implementation until 2023.

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

According to the Senate Appropriations Committee:

- HCD estimates ongoing costs of $178,000 annually for 1.0 PY of staff to update programs and APR forms, provide technical assistance to local governments, and review housing elements that incorporate conversions. (General Fund)

SUPPORT: (Verified 8/31/21)

California Community Housing Agency (source)
All Home
American Planning Association, California Chapter
Association of Regional Center Agencies
California Cities for Local Control
California Housing Consortium
City of Hidden Hills
City of Lafayette
City of Walnut Creek
Eden Housing
Orange County Council of Governments
Silicon Valley Leadership Group
YIMBY Action
Zillow Group

OPPOSITION: (Verified 8/31/21)

None received

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Erin Riches / HOUSING / (916) 651-4124
9/1/21 16:20:25

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

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

THIRD READING

Bill No: AB 794
Author: Carrillo (D), et al.
Amended: 9/1/21 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 7/7/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Bates, Dahle

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 7/12/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 52-17, 6/2/21 - See last page for vote

SUBJECT: Air pollution: purchase of new vehicles: incentive programs: eligibility: labor and workforce standards

SOURCE: Author

DIGEST: This bill attaches labor standards to eligibility for various clean vehicle incentive programs administered by the California Air Resources Board (ARB) for fleet purchasing in port drayage and short-haul trucking service.

Senate Floor Amendments of 9/1/21 add nonsubstantive double-jointing language to avoid a chaptering conflict with SB 753 (Roth).

ANALYSIS:

Existing law:

1) Establishes the ARB as the air pollution control agency in California and requires ARB, among other things, to control emissions from a wide array of mobile sources and implement the Federal Clean Air Act. (HSC §39500 et seq.)

2) Requires ARB to ensure that statewide greenhouse gas (GHG) emissions are reduced to at least 40% below the 1990 level by December 31, 2030 (i.e., SB 32); and allows ARB, until December 31, 2030, to adopt regulations that utilize market-based compliance mechanisms (i.e., the cap-and-trade program) to reduce GHG emissions. (HSC §§ 38566, 38562)

3) Establishes the Greenhouse Gas Reduction Fund (GGRF) in the State Treasury, requires all moneys, except for fines and penalties, collected pursuant to a market-based mechanism be deposited in the fund. (Government Code §16428.8)

4) Requires, under SB 1402 (Lara, Chapter 702, Statutes of 2018) the Division of Labor Standards Enforcement (DLSE) to post on its website a list of port drayage motor carriers with unsatisfied final court judgments, tax assessments or tax liens, and further requires that any customer that engages an entity on the list shall share all civil legal responsibility and civil liability owed to a port truck driver for services obtained after the date the carrier appears on the list; the customer is jointly and severally liable for the full amount found due of unpaid wages, unreimbursed expenses, damages, penalties, and any applicable interest. (Labor Code § 2810.4)

This bill:

1) Adds implementation of specified labor standards to the list of records required of a state agency expending GGRF money for the purchase of new vehicles, starting in the 2022-23 fiscal year.

2) Specifies labor standards, to be considered as a cobenefit of incentive programs for the purchase of new vehicles that are based on clean air standards.

a) Establishes the rationale, implementation, and applicability of these standards by, among other provisions:

   i) Permitting ARB to, if they determine there are any constraints on implementation due to consistency between existing statutory goals for the incentive program to reduce emissions and these labor standards, notify the Legislature in a written report of their findings and any possible remedies for the constraints;
   ii) Defining the scope of applicable new vehicle purchase incentive programs to include, but not be limited to, any incentive program funded by specified funds by ARB, excluding a settlement fund, court order, or consent decree under ARB's jurisdiction;
   iii) Stating that this chapter applies these standards only to fleet purchasers of new vehicles for drayage and short-haul truck services within the state, and that these standards explicitly do not apply to other fleet purchasers outside this scope;
   iv) Making provisions for the above penalty to apply to any successor or assignee of the purchaser; and,
   v) Requiring fleet purchasers to attest in writing the following upon application for an incentive (and annual updates affirming continued compliance):

      (1) That it does not have any applicable law violations at the time of applying for the incentive;
      (2) That it will maintain compliance with applicable laws for at least three years from the date of application or the duration of the incentive agreement, whichever is longer; and,
      (3) That it will retain direct control over the manner and means for performance of any individual using or driving the vehicle for at least three years from the date of application or the duration of the incentive agreement, whichever is longer.

3) Makes conforming changes to various vehicle incentive programs to comply with the specified labor standards, specifically those programs codified within or otherwise funded by: the GGRF Investment Plan and Revitalization Act, the Air Pollution Control Fund, the Air Quality Improvement Fund, and the Carl Moyer Program.

4) Gives the Employment Development Department (EDD) the authority to share data with ARB to implement and enforce the above standards, while protecting

that data from disclosure to the public or on ARB's website.

5) Authorizes third parties to report to the ARB that a fleet purchaser is in violation of the eligibility requirements of AB 794, and states they must provide documentation to substantiate their allegation before ARB considers it.

Background

1) *"Putting California on the High Road."* As required by AB 398 (E. Garcia, Chapter 135, Statutes of 2017), the California Workforce Development Board (CWDB), in consultation with ARB, commissioned the Center for Labor Research and Education at the University of California, Berkeley to prepare a report on jobs and climate action. The report, "Putting California on the High Road: A Jobs and Climate Action Plan for 2030," was published in June of 2020, and has numerous recommendations. The three key messages of the report were that 1) labor should be considered an investment rather than a cost – and investments in growing, diversifying, and upskilling California's workforce could positively affect returns on climate mitigation efforts; 2) California can achieve greater social equity in labor market outcomes for disadvantaged workers and communities when policymakers pay attention to job quality; and 3) deliberate policy interventions are necessary to advance job quality and social equity during the transition to a carbon neutral economy.

   Notably, the report had several recommendations on demand-side strategies for agencies implementing climate measures. The report argues that California's state government can use its power not only to drive low-carbon economic growth but also to support equitable development. Most relevant to AB 794, the 2030 Action Plan called for the state to "include responsible employer standards in all climate incentive programs," stating that responsible employer standards can screen out unwanted behavior and help prevent public funds from supporting low-wage jobs or unfair and illegal labor practices.

2) *Drayage labor issues*. According to a 2019 report from the UC Berkeley Labor Center, misclassification of truck drivers as independent contractors has climate, labor, and environmental justice impacts. Contracting out truck driving shifts the costs of truck ownership and operation from trucking companies to individual truck drivers – as much as 30% of payroll, equipment, and benefits costs. Because it is illegal to misclassify drivers, highly accurate data are not readily available on the prevalence of the practice. A number of academic studies analyzing ports across the country suggest that between 75% and 85% of workers likely meet core misclassification criteria.

Port drivers in California have filed more than 1,000 claims with DLSE for violations related to misclassification. The Labor Commissioner has issued 448 decisions in these cases and found drivers were owed more than $50 million in damages collectively. Under SB 1402 (Lara, Chapter 702, Statutes of 2018), DLSE maintains a list of drayage motor carriers with unsatisfied court judgements, tax assessments, or tax liens, with whom any customer engaging with will be jointly liable for all liability owed to a port truck driver. As of publication of this analysis, the SB 1402 list currently contains 53 carriers with such liabilities.

Contract truck drivers, particularly misclassified contractors, earn low incomes and face high capital costs. While regulatory compliance costs for large trucking firms represent a small percent of total revenue, contract truck drivers can face compliance expenses far in excess of their yearly income. The difference between the average incomes of port drivers who are employed ($35,000) versus contracted ($28,783) illustrates how even seemingly modest compliance costs could significantly impact these drivers' earnings.

Under the contractor business model, the truck drivers least equipped financially to buy and maintain clean vehicles disproportionately bear the financial burden of attaining the state's climate goals in this sector. This bill's supporters assert that misclassification of workers slows adoption of cleaner trucks, citing that although misclassified drivers are approximately 20% of the truck driver labor pool, they represent nearly half of the noncompliant vehicles.

3) *Cleaning up trucking emissions.* The transportation sector accounts for over 40% of all GHG emissions in California—the most of any economic sector in our state—and consistent and significant reductions in vehicle emissions remain elusive. Commercial trucking in particular is a critical focus area for climate policy. Heavy-duty vehicles emit a fifth of all transportation-related GHGs. They also produce toxic air pollutants that significantly increase risk of cancer and other severe health challenges for California residents, particularly in low-income communities of color.

Comments

1) *Purpose of bill.* According to the author, "In order to create high-road quality jobs while moving closer to meet climate goals, AB 794 will ensure that public funding to manufacture and purchase cleaner vehicles is tied to labor standards. California should not subsidize companies that violate workers' rights or shift

costs onto the backs of workers or the state safety net. Public funding should reward companies that follow the law and respect workers. This bill allows California to meet its climate goals while using public funds to support good job creation in communities of color. Public subsidies should reduce income and racial inequality, not widen the gaps."

2) *Labor & economic development as a cobenefit*. Money spent to reduce GHGs can do much more than just that. Cobenefits to GHG emission reductions, such as criteria pollutant and air toxic reductions, economic development, preservation of biodiversity, and numerous other quality of life improvements can be achieved simultaneously. AB 794 proposes to explicitly add another cobenefit to those considered when money is spent on reducing GHG emissions: labor standard compliance.

3) *ARB implementation*. Recent amendments to AB 794 change how the bill will be implemented. ARB will take the lead in determining eligibility through their normal incentive contracting process. Specifically, the bill now streamlines the eligibility process so that fleet purchasers submit a written attestation that they do not have any law violations, are not on the DIR SB 1402 list, and will retain control of the vehicle and operators. It also streamlines yearly reporting, attestation and document disclosure requirements.

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

According to the Senate Appropriations Committee, "Unknown but likely significant ongoing costs, possibly in the millions of dollars annually (General Fund and Greenhouse Gas Reduction Fund [GGRF]) for ARB to update impacted inventive programs, amend funding guidelines, process and track grant agreements, and enforce the provisions of this bill, among other things.

Unknown costs for the Labor and Workforce Development Agency (LWDA) to collaborate with ARB."

SUPPORT: (Verified 9/1//21)

Bluegreen Alliance
California Environmental Justice Alliance Action
California Faculty Association
California Labor Federation, AFL-CIO
California League of Conservation Voters
California Teamsters Public Affairs Council

Center for Community Action & Environmental Justice
Clergy and Laity United for Economic Justice
Coalition for Clean Air
Earthjustice
East Area Progressive Democrats
Garment Worker Center
Jobs to Move America
Latinos in Action
LAX Area Democratic Club
Long Beach Young Democrats
Los Angeles County Federation of Labor
Natural Resources Defense Council
Northeast Democratic Club
People's Collective for Environmental Justice
Policylink
Progressive Democratic Club
Sierra Club California
Stonewall Democratic Club
Strategic Actions for a Just Economy
Teamsters Port Division
UAW Region 8
Union of Concerned Scientists

OPPOSITION: (9/1/21)

Western States Trucking Association

ARGUMENTS IN SUPPORT: According to the sponsors of this bill, "A major obstacle to meeting climate, clean air and environmental justice goals is the misclassification of drayage truck drivers. Trucking companies intentionally and illegally misclassify drivers as independent contractors, unlawfully forcing them to bear all the costs of transitioning to clean trucks. Misclassified drivers earn low wages and face prohibitively high financing costs to transition to clean vehicles. Driver misclassification stalls progress on clean air and climate goals because misclassified drivers simply cannot afford new clean or electric trucks nor required maintenance and upkeep when the trucks and associated expenses are pushed on them by the trucking companies who misclassify them."

ARGUMENTS IN OPPOSITION: According to the Western States Trucking Association, "While WSTA shares an interest in reducing unhealthy air in

California, which could be aided by accelerating the adoption of low- and zero-emissions vehicles in the commercial trucking sector, AB 794 unfairly singles out short-haul and drayage trucking companies – many of which are small businesses most in need of economic assistance – by requiring this subset of the trucking industry to satisfy certain burdensome requirements in order to qualify for funding, when they are competing with the rest of the industry for the funding. Ultimately, AB 794 will likely have the counterproductive effect of reducing access to critical resources for those most in need, thus reducing the number of new clean trucks and setting back California's climate goals."

ASSEMBLY FLOOR: 52-17, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooper, Friedman, Gabriel, Eduardo Garcia, Gipson, Gray, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Bigelow, Chen, Cooley, Daly, Frazier, Cristina Garcia, Lorena Gonzalez, Grayson, Mayes, Quirk-Silva

Prepared by: Eric Walters / E.Q. / (916) 651-4108
9/2/21 16:30:25

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

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

THIRD READING

Bill No: AB 811
Author: Luz Rivas (D), et al.
Amended: 8/31/21 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 17-0, 6/29/21
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, McGuire, Melendez, Min, Newman, Rubio, Skinner, Umberg, Wieckowski, Wilk

ASSEMBLY FLOOR: 76-1, 6/2/21 - See last page for vote

SUBJECT: Los Angeles County Metropolitan Transportation Authority: contracting

SOURCE: Los Angeles County Metropolitan Transportation Authority

DIGEST: This bill eliminates a required finding that the Los Angeles County Metropolitan Transportation Authority (LA Metro) must make before entering into specified contracts.

Senate Floor Amendments of 8/31/21 (1) clarify that LA Metro may solicit or award certain contracts, as specified, after a majority vote of its members; and (2) clarify the contents of the finding required to be approved by two-thirds vote of its members prior to awarding certain contracts, as specified, must describe that awarding the contract will achieve "a more competitive solicitation process with respect to quality, timeliness, and price," in addition to the existing finding of private sector efficiencies.

ANALYSIS:

Existing law:

1) Allows LA Metro to enter into contracts with private entities, the scope of which may combine within a single contract all or some of the planning, design,

permitting, development, joint development, construction, construction management, acquisition, leasing, installation, and warranty of all or components of transit systems, including, without limitation, passenger loading or intermodal station facilities; and facilities on real property owned or to be owned by the authority.

2) Provides that LA Metro may award these contracts after a finding by a two-thirds vote of its members that awarding the contract will achieve certain private sector efficiencies in the integration of design, project work, and components.

3) Allows these contracts to include operation and maintenance elements, if the inclusion of those elements are necessary, in the reasonable judgment of the authority, to assess vendor representations and warranties, performance guarantees, or life-cycle efficiencies; and do not conflict with collective bargaining agreements to which the authority is a party.

4) Provides that any construction, alteration, demolition, repairs, or other works of improvement performed under these contracts for LA Metro shall be considered a public works project subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, and shall be enforced by the Department of Industrial Relations in the same way it carries out this responsibility under the Labor Code.

5) Requires these contracts to be let to the lowest responsible bidder, as specified, or to a contractor chosen by a competitive bidding process that employs objective selection criteria that may include, but are not limited to, the proposed design approach, features, functions, life-cycle costs, and other criteria deemed appropriate by the authority, in addition to price.

6) Provides specified requirements for these contracts regarding noticing bids, bidding procedures, bid securities and subcontracting.

This bill:

1) Eliminates a provision that requires LA Metro to make a finding, by a two-thirds vote of its members, that awarding specified contracts will achieve for LA Metro certain private sector efficiencies relevant to the integration of design, project work, and components. The specified contracts are those with private entities that combine within a single contract all or some of the

planning, design, permitting, development, joint development, construction, construction management, acquisition, leasing, installation, and warranty of all or components of transit systems, including, without limitation, passenger loading or intermodal station facilities; and facilities on real property owned or to be owned by the authority.

2) Clarifies that LA Metro may solicit or award the contracts specified above after a majority vote of its members.

3) Retains the required finding, requiring a two-thirds vote of its members, for the contracts specified above that also include operation and maintenance elements, if the inclusion of those elements is necessary, in the reasonable judgment of the authority, to assess vendor representations and warranties, performance guarantees, or life-cycle efficiencies; and does not conflict with collective bargaining agreements to which LA Metro is a party.

4) Clarifies the finding required to be approved by two-thirds vote of its members prior to awarding contracts that also include operations and maintenance elements must describe that awarding the contract will achieve a more competitive solicitation process with respect to quality, timeliness, and price, in addition to the existing finding of private sector efficiencies.

Comments

1) *Purpose.* According to the author, "as planning for the 2028 Olympic and Paralympic Games progresses, the Los Angeles County Metropolitan Transportation Authority (LA Metro) is tasked with delivering critical transportation infrastructure projects. AB 811 streamlines LA Metro's project delivery by removing the two-third vote requirement when design-build is used. This measure will also bring LA Metro's enabling statutes in accord with all other transit agencies in the state—none of which have to abide by this two-third vote requirement."

2) *LA Metro Contracting.* LA Metro is a county transportation commission created to fund, plan for, coordinate, build, and operate public transportation systems within Los Angeles County. LA Metro also serves as the regional transportation planning agency for the county, and administers local sales taxes levied to fund transportation projects within the county.

Among other powers, LA Metro is authorized to use the design-build to develop transit systems and facilities on property owned by the authority. Design-build refers to a procurement and project delivery method in which both the design and construction of a project are procured from a single entity. Design-build stands in contrast to the traditional design-bid-build contracting method whereby work on a project is divided into two separate phases: design and construction. Under design-bid-build, the government agency is responsible for the design of the project, either by designing it itself or by contracting with a private entity to do so. When designs are completed, the agency solicits bids from the construction industry and hires the responsible low bidder to build the project. Design-build combines these two phases into a single, comprehensive contract. Design–build is used to minimize risks for the project sponsor and to reduce the delivery schedule by overlapping the design phase and construction phase of a project.

These contracts may include operation and maintenance within the contract and may be awarded to either the lowest bidder or the bidder that offers the best value based on objective selection criteria, including proposed design approach and live-cycle costs of the project. State law prescribes the manner in which LA Metro must solicit bids, deems the projects to be public works, and establishes other requirements for these contracts entered into by LA Metro, including making specific findings before awarding a contract. Specifically, before awarding a contract, LA Metro's governing board of directors must adopt, by a two-thirds vote, a finding that awarding the contract will achieve certain private sector efficiencies in the integration of design, project work, and components.

3) *2028 Summer Olympic and Paralympic Games.* The 2028 Summer Olympic and Paralympic Games are scheduled to take place in Los Angeles from July through September, 2028. This will be the third time that the city has hosted the Summer Olympics, making it the first North American city and the third worldwide to host the Games three times. According to an LA Metro blog post in September 2017, shortly after Los Angeles won its bid to host the Olympics, "in terms of local transportation, a lot will change between now and 2028. That is thanks to Measure R and Measure M, the two transportation ballot measures approved by L.A. County voters in 2008 and '16, respectively. Many Olympic events will be clustered in a few areas around our region, with three major 'sports parks' adjacent to rail or bus rapid transit lines in downtown Los Angeles, the Sepulveda Basin in the San Fernando Valley and the Long Beach waterfront. Other venues are also near transit (Santa Monica Beach, the Rose

Bowl, the new football stadium in Inglewood, StubHub Center, to name a few) or will be served by shuttle buses from transit and other destinations."

To meet the transportation goals needed for the games, LA Metro launched the Twenty-Eight by '28 initiative, which highlights 28 LA Metro projects for potential completion by the 2028 Summer Olympic and Paralympic Games. According to LA Metro, "The 2028 Games are an opportunity to advocate for resources to accelerate these projects, and a milestone to show what can be accomplished by working collaboratively as a region – with benefits to Los Angeles County for generations to come. The Metro Board approved a list of projects, which includes projects already slated for completion by 2028, as well as projects with later delivery dates with potential for acceleration…Not all Measure M investments scheduled for completion by 2028 are included in the Twenty-Eight by '28 list, and the list does not replace commitments made in the Measure M Ordinance."

Specifically, LA Metro is prioritizing a handful of high-priority rail transit projects known as the "Metro 4 Pillar Projects" that described as zero-emission rail line expansions and new connections to prepare the transportation infrastructure to support direct connection to the 2028 Olympic Games venues. These projects include: the Green Line Extension to Torrance, a four mile zero-emission rail extension to Torrance; the West Santa Ana Branch Transit Corridor, a new 19 mile zero-emission rail corridor connecting southeast LA County to downtown Los Angeles; Sepulveda Transit Corridor, a "mega infrastructure project," to deliver transit alternatives to the 405 freeway, connecting the San Fernando Valley to the west side of Los Angeles; and the Gold Line Eastside Extension, a zero-emission rail extension from East Los Angeles to Whittier.

To help support this effort, Governor Gavin Newsom included $1 billion in the 2021-2022 May Revision of the State Budget to deliver critical projects in time for the 2028 Olympics. These funds were included in the state budget, contingent upon further legislative action.

4) *AB 811 Updates LA Metro Contracting*. As previously noted, LA Metro is authorized to use design-build contracting for transit and other projects. Current statute contains a requirement that the LA Metro board of directors first approve, by a two-thirds vote, a finding that the design-build method of project delivery is efficient. Only then can the board approve the subsequent contract award in a separate action each time they wish to utilize design-build for a

capital project. The procurement process cannot begin until the finding has been approved. LA Metro's design-build statute was created in the 1990's and includes this two-step approval process for design-build contract awards. When implemented, design-build was not as common a delivery method for capital construction projects as it is today.

AB 811 maintains LA Metro board of directors' approval of all design-build contracts. Additionally, the bill maintains the requirement for the board of directors to have a two-thirds vote finding, and clarifies contents of the finding, for any contracts that include maintenance and operations, to determine if the inclusion is necessary and does not conflict with collective bargaining agreements to which LA Metro is a party.

Related/Prior Legislation

AB 2514 (L. Rivas, 2020) was substantially similar to this bill. AB 2514 was held in the Assembly Local Government Committee.

AB 1594 (Bloom, 2018) would have added passenger rapid transit, subways, and heavy rail to the types of fee-producing infrastructure for which a local government can enter into a public-private partnership (P3). The bill also would have repealed the requirement for LA Metro, prior to awarding a design-build or P3 contract, to adopt a finding with a two-thirds vote that awarding the contract will achieve efficiencies in the integration of design, project work, and components. AB 1594 was held on the Senate Floor.

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

SUPPORT: (Verified: 8/31/21)

Los Angeles County Metropolitan Transportation Authority (source)

OPPOSITION: (Verified: 8/31/21)

None received

ARGUMENTS IN SUPPORT: According to the Los Angeles County Metropolitan Transportation Authority, the sponsor of the bill, "Metro is sponsoring AB 811 to accelerate project delivery as LA County prepares the transportation infrastructure to support the mobility demands of the 2028 Los Angeles Olympic and Paralympic Games." Further, "due to the success of the design-build method of project delivery, subsequent design-build laws have been

passed that do not require the initial approval of a finding – and AB 811 aligns Metro's authorizing statute with the state's other design-build statutes. No other transportation agency in California has to take this extra step. This proposal brings LA Metro's enabling statute into accord with other transit agencies by streamlining the approval process for the utilization of design-build by removing the superfluous two-thirds vote requirement."

ASSEMBLY FLOOR: 76-1, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, 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, 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
NOES: Gray
NO VOTE RECORDED: Bigelow, Lorena Gonzalez

Prepared by: Melissa White / TRANS. / (916) 651-4121
9/1/21 16:20:31

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

9/1/21 16:20:31

SENATE RULES COMMITTEE AB 815
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 815
Author: Luz Rivas (D), Gipson (D) and Nazarian (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 5-0, 6/30/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, McGuire
NO VOTE RECORDED: Glazer, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 76-0, 6/2/21 - See last page for vote

SUBJECT: School nurses: credentialing

SOURCE: Los Angeles Unified School District

DIGEST: This bill authorizes the Commission on Teacher Credentialing (CTC) to approve a school nurse credentialing program offered by a local educational agency (LEA) which had at least 40,000 student enrolled during the 2019-20 school year.

ANALYSIS:

Existing law:

1) Requires the CTC to establish professional standards, assessments, and examinations for entry and advancement in the education profession.

2) Specifies minimum requirements for a services credential with a specialization in health for a school nurse to be a baccalaureate or higher degree from an accredited institution, a valid California license as a registered nurse, and one year of coursework beyond the baccalaureate degree in a program approved by the CTC.

3) Specifies that a preliminary credential for a services credential for a school nurse is valid for five years, pending completion of a year of coursework beyond the baccalaureate degree and a professional credential in school nursing is valid for five years, after completion of requirements specified by the CTC.

4) Specifies that the holder of a services credential with a specialization in health for a school nurse who also completes the requirements for a special class authorization in health in a program that is approved by the CTC is authorized to teach classes on health in a preschool, kindergarten, grades 1 to 12, inclusive, and classes organized primarily for adults.

5) Provides the CTC with powers and duties including the adoption and implementation of an accreditation framework setting forth the commission's policies regarding the accreditation of educator preparation in California.

6) Requires the CTC to establish and modify credential-specific standards, experimental program standards, and alternative program standards.

7) Authorizes the CTC to issue the preliminary teaching credential, to be granted upon possession of a baccalaureate degree from a regionally accredited institution, completion of an accredited credential program, and either successful passage of an examination or assessment that has been adopted or approved by the CTC.

This bill:

1) Permits LEAs with at least 40,000 students enrolled during the 2019-20 school year, to apply for authorization of a clear credential program in school nursing from the CTC.

2) Requires the CTC to apply the standards for approval of a program of professional preparation offered by a postsecondary educational institution to a program of professional preparation offered by a LEA.

3) Clarifies the existing requirement that the minimum requirements for a services credential with a specialization in health for a school nurse, to specify that a baccalaureate or higher degree is to be from a *regionally* accredited institution *of higher education*.

Comments

Need for the bill. According to the author, "COVID-19 highlighted the critical role that nurses play in safeguarding the health of our communities. Unfortunately, a

majority of California's schoolchildren must attend a school with no nurse present. In fact, for the 2018-2019 school year, there was only one nurse for every 2,400 students. This school nurse shortage means that non-medical staff, like teachers and administrators, must be the ones who provide critical health services for students, particularly those experiencing chronic health conditions like diabetes and asthma.

"Under current law, candidates must earn a Clear School Nurse Services Credential to serve as a school nurse. However, only four universities in the entire state offer accredited programs that grant this credential. AB 815 increases access to this necessary credentialing program by clarifying in state law that Local Education Agencies (LEAs) can apply to the Commission on Teaching Credentialing to establish in-house Clear School Nurse Services credentialing programs."

The shortage of school nurses. By 2030, California is anticipated to have the most severe nursing shortage alongside Florida and Texas. It is estimated that for the 2018-2019 school year, there were about 2,700 school nurses employed and about 6.2 million students enrolled in California. This equates to about 2,300 students potentially needing care from each school nurse. Some rural counties reported no school nurses at all. The American Academy of Pediatrics recommends one school nurse to 750 students in a healthy population and one school nurse to 225 students when accounting for pupils who require daily professional health services.

These numbers are not new as it has been many years since every school in the state had a nurse of its own to conduct on-campus health screenings, review immunization records, tend to students' minor medical needs and perform other duties intended to keep students healthy. The role of school nurses has become more critical due to the pandemic, with schools required to follow an extensive list of health and safety protocols.

In analyzing the potential causes of the school nurse shortage, it should be noted that the average salary for a nurse in California is $113,250. Meanwhile, the average salary for a school nurse in Los Angeles Unified was less than $80,000 in 2019, according to the district. In Fresno Unified, a school nurse is currently paid between $56,000 and $91,000 for 185 days of work, according to the district. School nurses often work fewer days than nurses working in hospitals and clinics, but they have to accept a lower annual salary and must take additional classes and pay more fees to get the job, which requires a School Nurse Services Credential.

Existing school nursing credential programs only offered at higher education institutions. Currently, there are four school nursing credential programs in

California offered in the state: California State University at Fresno, California State University at Sacramento, California State University at Fullerton, and one private program offered at Azusa Pacific University located northeast of Los Angeles. The cost for these credential programs range from $4,392 to $19,552. The four school nursing credential programs provide classes such as Advanced Pediatric Health Assessment and Health Promotion, Adolescent Health Care, and Advanced Health Assessment: Ambulatory Pediatrics. The curriculum of these programs are specific to K-12 schools. Aspiring candidates enter the credential programs certified as registered nurses where they learn to work with children in a school environment, provide health and wellness services to a diverse student body, demonstrate professional management skills of data and recordkeeping, and study the formulation and evaluation of health policy.

The Commission on Teacher Credentialing serves several roles, including enforcing teacher preparation program standards. The CTC awards credentials and certificates on the basis of completion of programs that meet Standards for Educator Preparation and Standards for Educator Competence.

For each type of professional credential in education, the CTC has developed and adopted standards which are based upon recent research and the expert advice of many professional educators. Each standard specifies a level of quality and effectiveness that the CTC requires from programs offering academic and professional preparation in education. The CTC enforces its standards by evaluating approved programs across California through an objective process conducted by carefully selected and trained professional educators to ensure that the standards are applied consistently and rigorously.

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

According to the Senate Appropriations Committee:

1) The bill's authorization for CTC to approve LEA-based school nursing credentialing programs could result in additional one-time costs in the tens of thousands of dollars for each LEA to develop and submit a new nursing program to CTC for approval. Additionally, a participating LEA is likely to incur ongoing costs estimated to be in the tens of thousands of dollars each year to offer the program for free to a single cohort of students. To the extent that a program charges a program candidate fees to participate, these costs could be lower.

2) The CTC indicates it would incur additional special fund costs to evaluate school nurse credentialing programs seeking authorization offered by an LEA.

Specifically, each program review process would require 0.1 staff or about $15,000 and these costs would need to be absorbed by its reserves for the 2021-22 fiscal year since the Budget Act suspends accreditation fees for that year. The CTC also estimates that given the workload necessary for an LEA to create a school nurse credentialing program, there would be between one and five LEAs seeking authorization in the near term.

SUPPORT: (Verified 8/27/21)

Los Angeles Unified School District (source)
Alameda County Office of Education
Association of California School Administrators
California County Superintendents Educational Services Association
California School Boards Association
Humboldt County Office of Education
Los Angeles County Superintendent of Schools, Debra Duardo
Riverside County Office of Education
Santa Clara County Office of Education
UNITE-LA

OPPOSITION: (Verified 8/27/21)

American Nurses Association/California
California Association of Colleges of Nursing
California School Nurses Organization
California State University Office of the Chancellor

ARGUMENTS IN SUPPORT: Los Angeles Unified School District states: "Los Angeles Unified views the provisions in AB 815 is creating an alternative option, but not a replacement, of the existing credentialing programs offered by postsecondary institutions of higher education. We believe there are several benefits to authorizing LEAs to offer their own credentialing programs. School nurse candidates are able to experience on-site learning, receive ongoing mentoring and on-the-job coaching, and be immersed in the school campus life to better understand the health and social and emotional needs of the student population served. Los Angeles Unified has offered distinguished educator preparation programs since 1983 that meet or exceed the quality standards and rigor set forth by the CTC, and is prepared to set the same standards when seeking accreditation to offer a Professional Clear School Nurse Services Credential. By expanding which entities may offer the necessary school nurse credential, AB 815 could have the effect of increasing access to high-quality credentialing programs with the goal

of supporting school employers with more qualified candidates that are ready for hire or who still need to complete the credentialing requirements."

ARGUMENTS IN OPPOSITION: The California State University Office of the Chancellor states, "the CSU has a long history of producing quality school nurses at CSU Sacramento, CSU Fresno, and CSU Fullerton. Each of these programs caters to the needs of their students and has improved access by offering online courses and limiting the number days they must be physically in the classroom. As a result, the CSU produces over 200 high quality and skilled school nurses each year. Unlike teaching credential programs, the standard of care for nursing programs is much higher. To offer a high-quality program, an LEA will need to invest in qualified and experienced faculty to teach the course work, and facilities and equipment to prepare school nurses for the profession. The CSU already has the infrastructure in place to deliver high quality nursing candidates and has proven capable of doing so as the Master Plan intended. For these reasons, the CSU respectfully requests your "no" vote on AB 815."

ASSEMBLY FLOOR: 76-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, 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, 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, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Lorena Gonzalez, Mayes

Prepared by: Ian Johnson / ED. / (916) 651-4105
8/31/21 9:34:20

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

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

THIRD READING

Bill No: AB 817
Author: Wood (D), et al.
Amended: 7/15/21 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 8-0, 7/13/21
AYES: Stern, Jones, Allen, Eggman, Hertzberg, Hueso, Laird, Limón
NO VOTE RECORDED: Grove

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: Sport fishing licenses: electronic display: 12-consecutive-month licenses

SOURCE: Coastal Conservation Association California

DIGEST: This bill authorizes the director of the Department of Fish and Wildlife to issue a 12-consecutive-month sport fishing license, among other things.

ANALYSIS:

Existing law:

1) Establishes the Department of Fish and Wildlife (department) and the Fish and Game Commission (commission) in the California Natural Resources Agency.

   a) The department's charge includes, among other things, to manage the state's diverse fish, wildlife, and plant resources

   b) In general, the commission sets regulations that the department implements and enforces. The department also provides data and expertise to inform the commission's decision-making process.

2) Requires the commission to determine the form of all licenses, permits, tags, reservations, and other entitlements issued pursuant to the Fish and Game Code, and the method of carrying and displaying all licenses, except for those programs where the department has fee-setting authority, in which case the department retains that authority. (Fish and Game Code (FGC) §1050)

3) Requires that money collected under any state law relating to the protection or propagation of fish and game shall be used for activities relating thereto. (California Constitution, Article XVI, §9)

4) Requires all licenses and tags to be exhibited upon demand to any person authorized by the department to enforce any law relating to the protection and conservation of fish. (FGC §2012)

5) Declares the legislative intent that the costs of hunting and sport fishing programs shall be provided out of hunting and sport fishing revenues and reimbursements and federal funds received for hunting and sport fishing programs, and other funds appropriated by the Legislature for this purpose, as specified. (FGC §711)

6) Requires a resident or a nonresident, 16 years of age or older, upon payment of a specified fee, to be issued a sport fishing license for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof. The angler must possess the license while fishing. (FGC §7149.05)

    a) In addition, depending upon the location, equipment used, and species sought, the angler may also be required to purchase one or more additional validations and species report cards which are valid only for the calendar year they are issued in. These include, for example, an ocean enhancement validation.

7) Requires the commission to adjust the amount of the fees for sport fishing licenses, as prescribed, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses. (FGC §1050)

8) Requires the department to issue a reduced fee sport fishing license to specified applicants, including a resident of the state over 65 years of age if the person's total monthly income from all sources does not exceed a specified amount. For 2021, this monthly income cap is $943.72 for a single person and $1,582.14 for a married person (combined income). The cost of the reduced fee sport fishing license is currently $7.98.

This bill authorizes the director to issue a 12-consecutive-month sport fishing license, among other things. Specifically, this bill:

1) Authorizes the department, on or by January 1, 2023, to provide an option to display a sport fishing license, validation, report card, or other sport fishing entitlement electronically on a mobile device, as provided.

    a) A person who displays a license, validation, report card, or other sport fishing entitlement electronically is deemed to be in compliance with certain license, validation, report card, or other sport fishing license possession requirements, as specified.

    b) A tag required to be affixed to a fish must still be affixed.

2) Authorizes the director to issue a sport fishing license to a resident or a non-resident that is valid for 12-consecutive-months from the date of purchase.

3) Requires the director to provide the Legislature, on or before January 1, 2025, recommendations for increasing fees for all sport fishing licenses to levels that provide adequate resources to fund sport fishing, as provided.

4) Requires the director to provide the Legislature, on or before July 1, 2028, a written report evaluating all sport fishing licenses, including sales information, administration and implementation costs to the department and commission, and evidence for license renewals, among other information, as provided.

    a) The director is required to collect all relevant, appropriate and sufficient data to perform the evaluation, as specified.

5) Revises the eligibility requirements for an annual reduced fee sport fishing license for a resident over 65 years of age to be for one who receives benefits from either the Cash Assistance Program for Age, Blind, and Disabled Legal Immigrants or the State Supplementary Program for Aged, Blind and Disabled.

6) Sunsets the 12-consecutive-month sport fishing license on January 1, 2030, as provided.

7) Makes various technical changes to statute.

Background

The current fee for an annual resident sport fishing license is $52.66, and is $142.05 for a non-resident. One- and two-day sport fishing license fees for

residents are $17.02, and $26.49, respectively. For a resident, an annual license is currently priced at the same level as about four days of fishing if a combination of one or two day license are purchased. From this perspective, an annual license represents good angling value if used more than a handful of days.

In the last 40 plus years through 2019, there has been a steady decline in annual sport fishing license sales. In the 1970s and into the early 1980s, the number of resident annual sport fishing license sales averaged about 2.1 – 2.2 million. In 2019, the number sold was about half of that at just over 1 million. This decline occurred at the same time as California's population approximately doubled. California is not unique in this regard, as sport fishing participation has similarly declined nationally overall during this time period.

The COVID-19 pandemic spurred increased interest in sport fishing. Total sport fishing license sales increased about 19% in 2020 compared to 2019. Annual resident fishing license sales increased 18% and one day sport fishing licenses increased over 31%. Sales of many required stamps, validations and tags also increased. It is not yet clear if these license sales increases will continue after the pandemic. The department has made a concerted effort in the last few years to develop so-called "R3" efforts (for recruitment, retention, and reactivation) to increase public interest in hunting and angling.

Reduced fee sport fishing licenses have been available for those who meet certain eligibility criteria for many years. Since 2011, up to a few thousand residents have annually obtained a low income senior reduced fee sport fishing license.

Comments

Will a 12-consecutive-month annual sport fishing license spur interest in sport fishing? Monthly annual license sales data obtained a few years ago from the department indicate that over half of the annual fishing licenses are purchased in the first half of the year. Data are mixed from other states that have switched to 12-consecutive-month annual sport fishing licenses. Some have seen increased sales and some have not. It is not known how applicable the factors that led to increases or decreases in annual sales in other states are to California. License purchases increased during the pandemic regardless of the current license fee structure.

NOTE: Further discussion of this bill can be found in the Senate Natural Resources and Water Committee's bill analysis.

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

According to the Senate Appropriations Committee, the fiscal impacts are:

- The Department of Fish and Wildlife estimates one-time costs of $150,000 (FGPF) to provide two reports to the Legislature.
- One-time cost pressure of between $425,000 and $1 million (FGPF) to establish a 365-day license and implement the electronic display of licenses.
- Should the director choose to establish a 365-day license under the authority provided by this bill, potential unknown revenue impact ranging from a loss in the millions of dollars to an increase of roughly the same magnitude (FGPF).
- Should the director choose to implement the electronic display of licenses under the authority provided by this bill, potential revenue losses of up to $444,000 annually (FGPF) due to a reduction in the number of duplicate licenses issued.

SUPPORT: (Verified 8/27/21)

Coastal Conservation Association California (source)
ABU Garcia
AFTCO
Angler Chronicles
Balboa Angling Club
Berkley
Big Hammer Lures
Boundless Boat Charters, LLC
Bullbuster
Cedros Kayak Fishing
Channel Islands Yacht Club
Chub
Cobalt Sportfishing
Coletta Sportfishing
Costa Sunglasses
Dana Angling Club
Dana Wharf Rod & Reel Club
Dana Wharf Sportfishing
Davis Boats
Fenwick
FIA Insurance Services, Inc.
Fin-Nor
Fishlab USA

Fishworks Clothing Products
Greys
Harbour Rod & Reel Club
Hardy
Hodgman
Hogan's Tackle
Hook, Line & Sinker Tackle
Izorline Fishing Products
Johnson
JRC
Ketcham Tackle
Kingfisher Angling Club
Laguna Niguel Billfish Club
Los Angeles Rod & Reel Club
Marina del Rey Anglers Club
Master Fishing Tackle
Mitchell
Oceanside Sea Center
Oceanside Senior Anglers
Okuma Fishing USA
One Cool Tuna
Outdoor Sportsmen's Coalition of California
Pacific Coast Sportfishing Magazine
Park Cypress RV Storage
PENN
Pfleuger
Phenix Rods
Poseidon Fishing Adventures
Promar & Ahi USA
Recreational Boaters of California
Roddy Fishing
San Diego Anglers Club/San Diego Anglers Foundation
San Diego County Wildlife Federation
San Diego Flyfishers Club
San Diego Marlin Club
San Diego Rod & Reel Club
San Diego Sportfishing Council
Sebile
Shakespeare
Shimano North America Fishing

SKB Cases
Soft Steel USA
South Bay Anglers Club
SpiderWire
Sportfishing Association of California
Squidco Fishing Tackle
Sten
Tailhunter Sportfishing
The California Sportsman's Lobby, Inc.
The Longfin Tackle Store
The Rusty Hook Tackle Store
Thresher Boats
Trojan Anglers Club
Turner's Rod & Reel Fishing Club
Ugly Stick
Van Staal
Wavewalker Charters
Western Outdoor News

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "Sport fishing and fishing tourism is a key component of rural economies in my district and across the state. Unfortunately, California has seen a dramatic decline in fishing participation statewide. There are over 14 million more people in California today than there were in 1985 and roughly 1 million fewer sport fishing licenses sold annually. However, the rush to outdoor activities in the wake of the pandemic has temporarily boosted fishing participation. The common sense update proposed in AB 817 will build on this new found momentum, making purchasing and renewing sport fishing licenses easier and more appealing to both first time and longtime anglers."

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, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty,

Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Kiley

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
8/28/21 14:05:30

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

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

THIRD READING

Bill No: AB 825
Author: Levine (D)
Amended: 3/26/21 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-1, 6/22/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Jones

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 75-0, 5/27/21 - See last page for vote

SUBJECT: Personal information: data breaches: genetic data

SOURCE: Author

DIGEST: This bill adds "genetic information" to the definition of personal information for purposes of the laws requiring certain businesses to implement and maintain reasonable security procedures and practices to protect personal information they own, license, or maintain. ThIS bill requires businesses and agencies that maintain personal information to disclose a breach of genetic information.

ANALYSIS:

Existing law:

1) Provides, pursuant to the California Constitution, that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const., art. I, Sec. 1.)

2) Establishes the Information Practices Act of 1977, which declares that the right to privacy is a personal and fundamental right protected by Section 1 of Article I of the Constitution of California and by the United States Constitution and that all individuals have a right of privacy in information pertaining to them. (Civ. Code § 1798 et seq.)

3) Establishes the California Customer Records Act, which provides requirements for the maintenance and disposal of customer records and the personal information contained therein. (Civ. Code § 1798.80 et seq.) It further states it is the intent of the Legislature to ensure that personal information about California residents is protected and to encourage businesses that own, license, or maintain personal information about Californians to provide reasonable security for that information. (Civ. Code § 1798.81.5(a).)

4) Requires a business that owns, licenses, or maintains personal information about a California resident to implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure and requires such businesses to contractually require nonaffiliated third parties to which it discloses such personal information to similarly protect that information. (Civ. Code § 1798.81.5(b), (c).) "Personal information" for these purposes means either of the following:

   a) A username or email address in combination with a password or security question and answer that would permit access to an online account; or

   b) An individual's first name or first initial and their last name in combination with any one or more of specified data elements, when either the name or the data elements are not encrypted or redacted. (Civ. Code § 1798.81.5(d).)

5) Establishes the data breach notification law, which requires any specified agency, person, or business to disclose a breach of the security of the system to any California resident whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as specified. (Civ. Code §§ 1798.29(a), (c) and 1798.82(a), (c).)

6) Requires, pursuant to the data breach notification law, that any specified agency, person, or business to notify the owner or licensee of the information of any security breach immediately following discovery if the personal

information was, or is reasonably believed to have been, acquired by an unauthorized person. (Civ. Code §§ 1798.29(b), 1798.82(b).)

7) Defines "personal information" for the purposes of the data breach notification law, to mean either of the following:

   a) An individual's first name or first initial and the individual's last name in combination with one or more specified data elements, such as social security number, medical information, health insurance information, credit card number, or unique biometric data generated from measurements or technical analysis of human body characteristics used to authenticate a specific individual, when either the name or the data elements are not encrypted or redacted; or

   b) A username or email address in combination with a password or security question and answer that would permit access to an online account. (Civ. Code §§ 1798.29(g) and (h); 1798.82(h) and (i).)

8) Provides that an agency, person, or business that is required to issue a security breach notification shall meet specified requirements. The notification must be written in plain language, meet certain type and format requirements, be titled "Notice of Data Breach," and include specified information. (Civ. Code §§ 1798.29(d), 1798.82(d).) Additionally, it authorizes them, in their discretion, to also include in the notification information about what the person or business has done to protect individuals whose information has been breached or advice on steps that the person may take to protect themselves. (Civ. Code §§ 1798.29(d), 1798.82(d).)

9) Prohibits discrimination under the Unruh Civil Rights Act and the Fair Employment and Housing Act on the basis of genetic information. (Civ. Code § 51; Gov. Code § 12920 et seq.)

10) Subjects those improperly disclosing genetic test results to civil and criminal penalties. (Civ. Code § 56.17; Ins. Code § 10149.1.)

11) 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 when their personal information is collected; 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.)

This bill:

1) Adds "genetic data" to the definition of "personal information" for purposes of the data breach notification laws and Section 1798.81.5.

2) Defines "genetic data" to mean any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material. Genetic material includes, but is not limited to, deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

Background

Current law requires businesses that own, license, or maintain personal information to implement and maintain reasonable security procedures and practices to protect that information. In addition, California's data breach notification statutes require government agencies, persons, and businesses to provide residents with specified notices in the wake of breaches of residents' personal information.

This bill expands the definition of personal information in each of those statutes to include genetic data. That term is defined as any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material. Genetic material includes, but is not limited to, DNA, RNA, genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, SNPs, uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom. (NOTE: For a more thorough analysis, please see the Senate Judiciary Committee analysis of the bill.)

Comments

According to the author:

> AB 825 will require Californians to be notified if there has been a breach of their personal genetic data by including "genetic data" in California's Data Breach Notification Law. Just as a company or government agency must disclose to an individual if their personal financial information or other identifying information has been breached, AB 825 will provide Californians

with timely notification if there is a breach of a person's most personal information, their genetic data.

Laws to prevent and respond to data breaches

Unfortunately, because of the size of its economy and the sheer number of consumers, the data collected and held by California businesses is frequently targeted by cyber criminals, and California accounts for a sizeable share of the nation's data breaches.[1] In 2015 alone, nearly three in five Californians were victims of a data breach. These data breaches are not harmless. The Attorney General reports that 67 percent of breach victims in the United States were also victims of fraud. The frequency of data breaches in California and the threat that such breaches pose makes the enactment and enforcement of statutes protecting against and responding to these breaches vital to maintaining the right to privacy for California residents.

California has addressed these issues over the years by requiring specific procedures for notifying individuals of data breaches; requiring certain security procedures and practices to prevent such breaches; and providing a right of action if such requirements are not implemented. This bill deals with three such statutes.

In 2003, California's first-in-the-nation security breach notification law went into effect. (*See* Civ. Code §§ 1798.29, 1798.82.) Since that time, all but three states have enacted similar security breach notification laws, and governments around the world have or are considering enacting such laws. There are two provisions governing data breach notification requirements, Civil Code Sections 1798.29 and 1798.82. The two provisions are nearly identical, but the former applies to public agencies and the latter to persons or businesses.

In 2004, AB 1950 (Wiggins, Chapter 877, Statutes of 2004) added Section 1798.81.5 to the Civil Code. The stated intent of that section is "to ensure that personal information about California residents is protected" and "to encourage businesses that own, license, or maintain personal information about Californians to provide reasonable security for that information."

Section 1798.81.5 currently requires businesses that own, license, or maintain certain personal information, and certain third parties, to implement and maintain reasonable security procedures and practices, appropriate to the nature of the

[1] California Department of Justice, *California Data Breach Report* (February 2016) **https://oag.ca.gov/sites/all/files/agweb/pdfs/dbr/2016-data-breach-report.pdf**.

information, to protect that information from unauthorized access, destruction, use, modification, or disclosure.

Included in the CCPA is one avenue for consumers to assert their own privacy rights. The CCPA provides an enforcement mechanism to consumers whose nonencrypted or nonredacted personal information is breached. In order for this cause of action to lie, the breach must have been the "result of the business's violation of the duty to implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect the personal information." (Civ. Code § 1798.150.)

The aggrieved consumer is entitled to recover damages between $100 and $750 per incident or actual damages, whichever is greater. The consumer is also entitled to injunctive or declaratory relief, and any other relief the court deems proper.

Ensuring sensitive, personal information is included in these protections

Each of these statutes provides Californians enhanced protections over their personal information, as respectively defined. This bill updates the definition of "personal information" applicable in these statutes to include "genetic data."

In order to ensure that residents are likewise informed when their most sensitive and immutable data, their genetic data, is subject to a breach, this bill expands the definition of personal information to include such data. Similarly, this bill expands the definition of "personal information" in Section 1798.81.5, the reasonable security statute, to include an individual's genetic data. For purposes of the consumer enforcement mechanism in the CCPA, "personal information" is defined by cross-reference to the definition in Section 1798.81.5.

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

According to the Senate Appropriations Committee:

- Ongoing investigatory and enforcement workload costs of $366,000 annually for 1.0 Deputy Attorney General and 1.0 Legal Secretary related to this bill. (Special fund*)
- Unknown costs to various state agencies to provide increased security breach notifications related to the breach of unencrypted genetic data.
- Unknown cost pressures to various state agencies to encrypt genetic data to the extent that they do not encrypt such data currently.

*Unfair Competition Law Fund

SUPPORT: (Verified 8/26/21)

23andMe
Ancestry
California Public Interest Research Group
Coalition for Genetic Data Protection
Consumer Attorneys of California
Consumer Reports
Privacy Rights Clearinghouse

OPPOSITION: (Verified 8/26/21)

California Chamber of Commerce
Insights Association
TechNet

ARGUMENTS IN SUPPORT: Writing in support, Consumer Reports and Privacy Rights Clearinghouse make the case for these protections: "Genetic data clearly warrants strong security protections, particularly in light of the plethora of data breaches in recent years, including a recent security breach involving customer genetic data at GEDMatch in July of last year. Companies need incentives to safeguard the data: in 2019, the genetic-testing startup Veritas, which uses DNA data to identify potential health risks, suffered a data breach involving unauthorized access to consumer data. In 2018, the ancestry site MyHeritage, which collects DNA data, disclosed that they left email addresses and hashed passwords unprotected on a server. Aside from the inherent privacy interest in keeping this information secure, if this data becomes publicly available due a data breach, it could potentially be accessed by others and used to discriminate against consumers. For example, access to long- term care insurance can be impacted by the results of genetic testing."

ARGUMENTS IN OPPOSITION: The California Chamber of Commerce and TechNet write: "AB 825 would create confusion by scoping-in existing language into the definition of 'genetic data.' Health data and biometric data are already separately defined in this code section. Creating a definition for a new term that scopes-in this data would cause confusion with regards to interpretation, enforcement, and compliance.

"AB 825 states that results from 'another source enabling equivalent information to be obtained' can also be included in the definition of 'genetic data.' The term

'equivalent information' is not limited to genetic material or information, making it broader than necessary."

ASSEMBLY FLOOR: 75-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, 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, 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: Burke, Frazier, Maienschein

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
8/28/21 11:14:29

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

SENATE RULES COMMITTEE AB 826
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 826
Author: Irwin (D)
Amended: 8/31/21 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 7/12/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

ASSEMBLY FLOOR: 64-9, 5/27/21 - See last page for vote

SUBJECT: County Employees Retirement Law of 1937: compensation and compensation earnable

SOURCE: County of Ventura
Service Employees International Union, California

DIGEST: This bill amends the County Employees Retirement Law (37 Act) definition of "compensation" and "compensation earnable" for legacy members of the Ventura County Employee Retirement Association (VCERA) to include an employee's flexible benefit allowance, subject to specified criteria.

Senate Floor Amendments of 8/31/21, limit the bill's application to Ventura County and only for Ventura County's flexible benefit plan allowance, maintain conditions precedent regulating whether the flexible benefit plan allowance is includable, as specified, and declare that a special statute is necessary and a general statute cannot be made applicable because of the unique circumstances of the retirement system in Ventura County.

ANALYSIS:

Existing law:

1) Establishes the County Employees Retirement Law of 1937 Act (referred to as "37 Act" or "CERL") consisting of twenty county retirement systems to provide defined benefit pension benefits to public county or district employees, as specified. (Government Code § 31450 et seq.)

2) Provides that 37 Act retirement system members are entitled, upon retirement for service, to receive a retirement allowance consisting of their service retirement annuity, their current service pension, and their prior service pension, as specified. (GC § 31673)

3) Establishes benefit provisions for the general defined benefit plan that each member county can adopt by resolution. Existing law also provides specific plan elements by statute to particular systems, as specified. Thus, while 37 Act retirement systems have similar characteristics each has its own particular benefit structure and requirements. (e.g., GC § 31461.1)

4) Defines "compensation earnable", as specified, in the 37 Act, as amended by PEPRA and "pensionable compensation", as specified, in PEPRA. Both terms refer to a member's compensation that a pension system may include in calculating the member's pension benefit. (The former applies to legacy members and the latter to PEPRA members.) Existing law also specifically excludes certain forms of compensation from pension benefit calculations in order to prevent manipulation of pension benefits in contravention of the theory and successful operation of a pension system. (GC § 31461 and GC § 7522.34)

5) Establishes PEPRA, a comprehensive reform of public pension law designed to stabilize public pension systems while preserving the objective of ensuring that public employees who dedicate a lifetime of service to California receive retirement security in their old age (GC § 7522 et seq.).

6) Excludes the following forms of compensation from compensation earnable:

    a) Any compensation determined by the board to have been paid to enhance a member's retirement benefit under that system, including:

(1) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member, and which was converted to and received by the member in the form of a cash payment in the final average salary period.
(2) Any one-time or ad hoc payment made to a member, but not to all similarly situated members in the member's grade or class.
(3) Any payment that is made solely due to the termination of the member's employment, but is received by the member while employed, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period regardless of when reported or paid.

b) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, in an amount that exceeds that which may be earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid.

c) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.

d) Payments made at the termination of employment, except those payments that do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid. (GC § 31461)

7) Provides that the average compensation during any period of service as a member of the Public Employees' Retirement System, a member of the Judges' Retirement System or Judges' Retirement System II, a member of a 37 Act county retirement system in another county, a member of the State Teachers' Retirement System, or a member of a retirement system of any other public agency of the state that has established reciprocity as specified, shall be considered compensation earnable or pensionable compensation by a 37 Act county member for purposes of computing final compensation for that member provided certain conditions are met, as specified. (GC § 31835)

This bill:

1) Applies only to Ventura County.

2) Amends the definition of "compensation" and "compensation earnable" to include flexible benefits plan allowances (FBA) paid by a county or a district on behalf of its employees as part of a cafeteria plan, as specified.

3) Sets the following requirements that the FBA must meet to be included in compensation and compensation earnable:

   a) The employer makes the FBA available to any person in the same grade or class of positions. "Grade or class of positions" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical, work-related grouping. The retirement system and employer shall not consider a single employee a grade or class of positions.
   b) Existing law, as specified, does not expressly exclude the FBA from compensation earnable.
   c) The retirement system included the FBA as part of compensation earnable as of July 30, 2020, and the employer and employee paid contributions to the retirement system, based on the FBA as of that date.
   d) The employer and employee pay the required contributions to the retirement system as the employee continues to earn the FBA.

4) Provides that where the FBA monetary amount is the same for all employees regardless of dependents, the entire amount is includable in compensation earnable.

5) Provides that where the FBA monetary amount varies among employees according to the number of the employee's dependents, the amount includable in compensation earnable is the amount provided to an employee with no dependents.

6) Makes the bill's provisions applicable only to legacy VCERA members.

7) Makes the bill's provision applicable to eligible VCERA members who retired prior to the bill's effective date.

8) States that this bill's provisions are "declarative of existing law", thereby immunizing the inclusion of Ventura County's FBA in compensation and compensation from a contrary interpretation of PEPRA and the Supreme Court decision in *Alameda*[1].

9) Declares that a special statute is necessary and a general statute cannot be made applicable because of the unique circumstances of the retirement system in Ventura County.

Background

PEPRA limited the types of compensation that public employers can include for purposes of calculating their employees' pension allowance. PEPRA, as upheld by the California Supreme Court in its 2020 *Alameda* decision, excluded certain items of pay - *to legacy employees as well as PEPRA employees* – as part of efforts to end pension spiking (i.e., the practice of padding compensation at the end of the employee's career to inflate the life-long pension benefit the employee would get upon retirement). PEPRA provided express examples of remuneration that are excluded per se and also examples of remuneration that a retirement board may exclude if it determined the compensation was paid to enhance a member's pension benefit.[2]

After PEPRA became law in 2013, some 37 Act members and employers believed that its provisions regarding the kinds of remuneration excludable from compensation earnable for *legacy* members were constitutionally infirm. They pursued litigation while their systems waited for the outcome of the litigation before unwinding the contested remuneration from their members' pension benefit calculations, believing that PEPRA's provisions affecting legacy members violated those systems' previous contracts and settlement agreements with those members. However, the Supreme Court in *Alameda* upheld PEPRA's provisions. The court found, in part, that the pension systems' past practices and settlement agreements did not prevent the Legislature from revising the law to achieve the permissible purpose of conforming pension benefits to the theory underlying the 37 Act plans by closing loopholes and proscribing potentially abusive practices.

Thus, 37 Act systems that continued to include affected compensation practices from their legacy members' pension calculations began the laborious and unpopular task of reversing compensation calculations, recovering from retirees up

---

[1] *Alameda County Deputy Sheriff's Assn. v. Alameda County Employee Retirement Assn.,* S247095 (Cal. Jul. 30, 2020).

[2] Per se exclusions include, for example, payments for excess unused leave, payments for additional services outside normal work hours, and termination payments made at time of termination. Examples of potential exclusions for compensation to enhance pension benefits include conversions of third party cash or in-kind payments to direct cash payments to the member during the final compensation period, one-time or ad hoc payments made to individuals, and excess termination payments made prior to termination and during the final compensation period. (GC §31461)

to 8 years of pension overpayments, and refunding contributions that those retirees and active members, and their employers, paid on the contested compensation.

Ventura County. This bill seeks to provide clarification that a specific kind of remuneration, Ventura County's FBA, is includable in compensation and compensation earnable and thus must be included in calculating a legacy member's pension benefit if it meets specified conditions.

According to the author, Ventura County includes the FBA in their pension calculations because members receive the full cash value; it is a regular, set amount paid every pay period; and is not subject to pension spiking or any other manipulation. Both the employer and employees have planned for and paid into these pension accounts. The bill's supporters argue that these elements of the FBA show that it is not the sort of compensation practice subject to pension spiking and thus, VCERA should not exclude the FBA where the practice was long-standing and its inclusion was part of the expectation of both employee and employer.

Potential Effect on other retirement systems through reciprocity. Other 37 Act county retirement systems, including those of Sonoma, Kern, and San Bernardino Counties have expressed concerns regarding the bill and whether it creates instability and inequity in the law by weakening the finality of PEPRA and *Alameda*. In particular, the Sonoma system raised concerns that the bill could lead to revisions in actuarial valuations for other retirement systems that have reciprocity with VCERA.

Under reciprocity, an employee's prior retirement system calculates the employee's pension for service with the prior employer using the compensation earned at the employee's subsequent employer, subject to certain conditions, as reported by the subsequent employer.

To the extent this bill results in including compensation that VCERA would otherwise exclude from compensation earnable or that other retirement systems estimated in their actuarial calculations could not be included in compensation, the bill may result in increased retirement liabilities for those systems that have reciprocity with VCERA and whose members received FBA at VCERA. On the other hand, this bill clarifies for all 37 Act counties that Ventura's FBAs are includable and thus, reduces the potential for future conflict and litigation on the matter.

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

SUPPORT: (Verified 8/31/21)

County of Ventura (co-source)
Service Employees International Union, California (co-source)

OPPOSITION: (Verified 8/31/21)

None received

ARGUMENTS IN SUPPORT: According to the author,

> AB 826 is a district bill that will ensure specified public employees hired prior to January 1, 2013 do not have their pensions unfairly reduced. For members of the Ventura County Employee Retirement Association (VCERA) only, the bill clarifies the definition of "compensation earnable" to include an employee's flexible benefit allowance, subject to certain criteria.

ASSEMBLY FLOOR: 64-9, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Megan Dahle, Davies, Gallagher, Kiley, Lackey, Seyarto, Smith, Voepel
NO VOTE RECORDED: Chen, Choi, Maienschein, Mathis, Patterson

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
9/1/21 16:20:29

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

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

THIRD READING

Bill No: AB 829
Author: Levine (D), et al.
Amended: 8/31/21 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/22/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE JUDICIARY COMMITTEE: 11-0, 7/13/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/26/21
AYES: Portantino, Bradford, Jones, Kamlager, Laird, McGuire
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 68-0, 5/27/21 - See last page for vote

SUBJECT: Foster children: immigration counsel

SOURCE: Children's Law Center of California
Law Foundation of Silicon Valley
Legal Services for Children

DIGEST: This bill expands on the Legislature's efforts to help unaccompanied minors to obtain immigration relief they are entitled to under the law.

Senate Floor Amendments as of 8/31/21 strike provisions from the bill that would have required the counties to report specified information to the California Department of Social Services (CDSS) for CDSS to collect, track, and report to the Legislature, as provided. These amendments were requested by CDSS based on feasibility concerns.

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 who have been abused or neglected, as specified. *(WIC 202*)

2) Establishes a system of juvenile dependency for children for specified reasons, and designates that a child who meets certain criteria is within the jurisdiction of the juvenile court and may be adjudged as a dependent child of the court, as specified. *(WIC 300 et seq.)*

3) Provides for extended foster care 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, 11400, 11402, 11403)*

4) Defines a "nonminor dependent" (NMD) as a current or former foster youth who is between 18 and 21 years old, 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, as specified. *(WIC 11400(v))*

5) Requires the court, if a child or NMD is not represented by counsel in a juvenile dependency proceeding, to appoint counsel for the child or NMD, unless the court finds that the child or NMD would not benefit from the appointment of counsel. Further requires that the dependent's counsel be charged in general with the representation of the child's interests and requires the counsel to investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interest of the child that may need to be protected by the initiation of other administrative or judicial proceeding. *(WIC 317(c), (e))*

6) Defines, under federal law, a "special immigrant juvenile" as a person under 21 who is declared a dependent by a juvenile court or committed to the custody of a state agency or a court-appointed individual, whose reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law, and whose return to their county of nationality or last habitual residence is not in the juvenile's best interest. Allows such a person to obtain special immigrant juvenile status (SIJS) and, based on that, apply for a visa for lawful permanent residency. *(8 U.S.C. Section 1101(a)(27)(J); 8 C.F.R. Section 204.11 (2021))*

7) Defines "unaccompanied undocumented minor" in state law to mean the same as "unaccompanied alien children" in federal law, which defines an unaccompanied alien child to mean a child who has no lawful immigration status in the United States, had not yet reached 18 years of age, and with respect to whom either there is no legal parent or guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody. *(WIC 13300(c); 6 U.S.C. Section 279(g)(2))*

8) Requires the California Department of Social Services (CDSS), subject to the availability of funding, to contract with qualified non-profit legal services organizations to provide legal services, including culturally and linguistically appropriate services, to unaccompanied undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in the state. *(WIC 13300; 13301)*

This bill:

1) Makes legislative findings and declarations related to the likelihood of undocumented children in foster care's ability to qualify for immigration relief, the difficulty of obtaining that relief without an attorney, the timeline for the filing for such relief, and ways the dependency system could aid undocumented foster youth in seeking immigration relief.

2) Specifies that it is the intent of the Legislature in enacting this act to create accountability in ensuring that foster children emancipating from foster care have received all immigration relief to which they are entitled. As well as specifies that it is the intent of the Legislature to identify a source of funding to enable counties to provide immigration counsel to all children in foster care.

3) Provides that a county shall make its best efforts to provide an undocumented minor or nonminor dependent in foster care under the jurisdiction of the juvenile court with access to immigration legal services. Further specifies that this may be provided by the child welfare agency through outside legal service providers.

4) Requires a placing agency, when the agency becomes aware that a dependent child or a NMD is an undocumented immigrant, notify the dependent child's or NMD's attorney that the dependent child or nonminor dependent is an undocumented immigrant. Allows electronic or telephonic notice utilized and requires the attorney receive notice within five business days of learning of the dependent child's or nonminor dependent's immigration status.

5) Strikes a sunset date from existing probate code, which indefinitely allows a nonprofit charitable corporation that meets set requirements act as the guardian of a minor for the purpose of filing for a SIJS visa, as proved.

6) Makes nonsubstantive and conforming changes.

Comments

According to the author, "the federal Special Immigrant Juvenile Status (SIJS) was created to help abused and neglected undocumented children obtain lawful permanent residency in the United States in order to provide greater stability to this underserved demographic. SIJS was established in 1990 for the purpose of protecting foster youth who are unable to reunite with their families, and serves as a primary route for undocumented foster child to gain lawful permanent immigration status in the United States, however; some children are unaware they can only apply for SIJS while in foster care, resulting in them unintentionally forfeiting their opportunity to obtain legal services through the program upon exiting the system."

The author goes on to note that "AB 829 requires counties to provide information to the California Department of Social Services regarding current procedures to identify how many undocumented foster youth or youth who are nonminor dependents they have in their care and provide these youth with immigration legal resources. Counties then must confirm whether the undocumented minors and nonminor dependents in foster care have been provided access to immigration legal services. The bill requires counties to report to the state whether gaps in resources exist to provide these resources to youth and for counties to make their best efforts to provide these youth with access to immigration legal services. This bill will ensure that undocumented youth in California's foster care system are provided with essential immigration legal services necessary to seek lawful residency in the United States and inform the State about current gaps in resources to achieve this."

Child Welfare Services (CWS). California's CWS system is an essential component of the state's safety net. Social workers in each county who receive reports of abuse or neglect, investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child's well-being and avoid court involvement, or a child is removed and placed into foster care. In 2019, the state's child welfare agencies received 477,614 reports of abuse or neglect. Of these, 69,652 reports contained allegations that were substantiated and 28,646 children were removed from their homes and placed into foster care via the CWS system. As of October 1, 2020, there were 60,045 children in California's CWS system.

Abused and neglected children who have been removed from their homes fall under the jurisdiction of the county's juvenile dependency court. The dependency court holds legal jurisdiction over the child, while the child is served by a CWS system social worker. This system seeks to ensure the safety and protection of these children, and where possible, preserve and strengthen families through visitation and family reunification. The CWS system provides multiple opportunities for the custody of a foster child, or the child's placement outside of the home, to be evaluated, reviewed and determined by the judicial system, in consultation with the child's social worker to help provide the best possible services to the child. It is the state's goal to reunify a foster child or youth with their biological family whenever possible. In instances where reunification is not possible, it is the state's goal to provide a permanent placement alternative, such as adoption or guardianship, with the second highest placement priority of the CWS system being to unite children with other relatives or nonrelative extended family members.

Children and NMDs under the jurisdiction of the dependency court through the CWS system are represented by counsel. Existing law requires the court to appoint counsel for the child or NMD if they are not already represented, unless the court finds that the child or NMD would not benefit from the appointment of counsel. Such a finding would be incredibly rare, since counsel represents the youth's interests to the court. Additionally, existing law requires the child or NMD's dependency counsel to investigate the interests of the child or NMD beyond the scope of the juvenile proceeding, and report to the court other interests of the child that may need to be protected by the initiation of other administrative or judicial proceedings.

This bill requires a placing agency to notify the child or NMD's dependency counsel of the child or NMD's undocumented immigration status, as provided. As highlighted by this bill's request to provide immigration attorneys, the dependency counsel may not be able to address the child or NMD's immigration status on their own. However, knowledge of the child or NMD's immigration status allows the dependency counsel to advocate on behalf of the child's interests to the court regarding the child or NMD's need for additional assistance in accessing legal remedies for their immigration status, such the SIJS discussed below.

Special Immigrant Juvenile Status. SIJS is a federal immigration classification that may help undocumented, vulnerable children and youth remain in the United States with a permanent, legal resident status. Under the Trafficking Victims Protection Reauthorization Act of 2008, any unmarried undocumented person under age 21 who has been abused, neglected or abandoned by a parent may seek

classification as a SIJS and then immediately apply for lawful permanent resident status. A youth, or their representative, must apply to the United States Citizenship and Immigration Service (USCIS) to qualify for SIJS status. However, in order to be eligible for SIJS with USCIS, a state family, juvenile, or probate court must first find the following:

- The child is a dependent of a juvenile court or committed to the custody of a state agency or a court-appointed individual;
- Reunification with one or both of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law; and
- Return to the child's county of nationality or last habitual residence is not in the child's best interest.

Originally, SIJS was applied only to children under the jurisdiction of the juvenile court. The required findings were expanded in 2008 to include children with a court-appointed custodian, thus allowing the required findings to be made on behalf of children with guardianships established by a probate court and custodial arrangements established by a family court. This significantly expanded the number of immigrant children who are eligible for SIJS. This bill focuses on youth in CWS system, as it requires counties to make best efforts to provide undocumented minor and NMDs in foster care under the jurisdiction of the juvenile court with access to immigration legal services. This is important to undocumented children and youth in foster care being eligible for SIJS because they cannot apply to USCIS for SIJS until the appropriate state court, which in the case of children and youth in foster care would be the juvenile court, makes the requisite findings.

Related/Prior Legislation

AB 1324 (Levine, 2019) would have required CDSS, if funding is available, to contract with qualified nonprofit legal services organizations to provide legal services to undocumented immigrant dependent children or NMDs of the juvenile court or who have orders for placement through the juvenile court. AB 1324 would also have required the placing agency to notify the child's or NMD's attorney of the child's or youth's immigration status, as provided. AB 1324 was later amended out of the Senate Human Services Committee's jurisdiction and held in the Senate Health Committee.

SB 873 (Committee on Budget and Fiscal Review, Chapter 685, Statutes 2014) required CDSS, subject to the availability of funding, to contract with qualified

non-profit legal services organizations to provide legal services, including culturally and linguistically appropriate services, to unaccompanied undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in the state.

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

According to the Senate Appropriations Committee, CDSS reports the following costs of implementing this bill which would increase costs for counties to meet the new notification, data collection, and reporting requirements:

- Local assistance fiscal impact of $54,000 General Fund (GF) ($76,000 total funds) in fiscal year (FY) 2021-22 and ongoing annual costs of $37,000 GF ($52,000 total funds)

- Additional automation costs to allow for the recording of data on the provision of access to immigration legal services would be approximately $2.1 million General Fund.

SUPPORT: (Verified 8/31/21)

Children's Law Center of California (co-source)
Law Foundation of Silicon Valley (co-source)
Legal Services for Children (co-source)
Alliance for Children's Rights
American Academy of Pediatrics, California
California Court Appointed Special Advocate Association
CaliforniaHealth+ Advocates
Children NOW
County of San Diego
Court Appointed Special Advocate Association of Los Angeles
Disability Rights California
John Burton Advocates for Youth
Kids in Need of Defense
Los Angeles County Office of Education
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 8/31/21)

None received

ASSEMBLY FLOOR: 68-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Chen, Megan Dahle, Gallagher, Kiley, Maienschein, Nguyen, Seyarto, Smith, Voepel

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
9/1/21 16:20:27

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

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

THIRD READING

Bill No: AB 844
Author: Grayson (D), et al.
Amended: 9/1/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 11-0, 6/21/21
AYES: Roth, Archuleta, Bates, Becker, Eggman, Hurtado, Jones, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Dodd, Leyva

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 7/8/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Skinner

ASSEMBLY FLOOR: 74-0, 5/10/21 (Consent) - See last page for vote

SUBJECT: Green Empowerment Zone for the Northern Waterfront area of the County of Contra Costa

SOURCE: Author

DIGEST: This bill authorizes establishment of a Green Empowerment Zone (Green EZ) for the Northern Waterfront area of Contra Costa County until January 1, 2028; tasks the Green EZ with various duties; and requires the Green EZ to report to the Legislature.

Senate Floor Amendments of 9/1/21 make technical changes for purposes of implementation.

ANALYSIS:

Existing law:

1) Establishes the GO-Biz within the Governor's Office for the purpose of serving as the lead state agency for economic strategy and marketing of California on

issues relating to business development, private sector investment, and economic growth. (Government Code (GOV) §§ 12096-12098.5)

2) Authorizes GO-Biz to make recommendations to the Governor and the Legislature on new state policies, programs, and actions, or amendments to existing programs, advance statewide economic goals and respond to emerging economic problems and opportunities, and ensure that all state policies and programs conform to the state economic and business development goals, among other things. (GOV § 12096.3 (b))

3) Requires the California Air Resources board (CARB) to determine the 1990 statewide greenhouse gas (GHG) emissions level and ensure statewide GHG emissions are reduced to 40% below the 1990 level by 2030, and adopt GHG emissions reductions measures by regulation. (Health and Safety Code (HSC) §§ 38566, 38500 *et seq.*)

4) Requires increased the Renewables Portfolio Standard (RPS) requirement from 50 to 60 percent by 2030, and created a policy which endeavors to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045. (Public Utilities Code (PUC) §§ 399.11 *et seq.*, 454.53)

This bill:

1) Authorizes establishment of a Green EZ for the Northern Waterfront area of the Contra Costa County until January 1, 2028.

2) States that the purpose of the Green EZ is to build upon the comparative advantage provided by the regional concentration of highly skilled energy industry workers by prioritizing access to tax incentives, grants, loan programs, workforce training programs, and private sector investment in the renewable energy sector.

3) Specifies particular cities that the Green EZ may include, along with unincorporated areas of the County of Contra Costa north of State Highway 4. Establishes that the Green EZ's Board of Directors may add additional members and by majority vote change the geography of the Green EZ.

4) Establishes that the Green EZ Board of Directors will be comprised of seven stakeholder groups, including local government, large employers in energy and manufacturing, state government, small business and economic development, universities, laboratories, and foundations, the largest private sector organized labor organizations, and workforce development and public and private

educational entities, at least one of whom shall be a representative from the California State University and at least one of whom shall be a representative from the California Community Colleges. Establishes that every member of the United States Congress representing a city, as specified, shall be ex officio voting members of the Board of Directors. Specifies that members of the Board shall serve without compensation and procedures for handling a conflict of interest.

5) Tasks the Green EZ with various duties, including but not limited to identification of projects and programs that will best utilize public dollars and improve the economic vitality of the Northern Waterfront area of the Contra Costa County in a coordinated effort to address the just transition to a clean energy economy.

6) Requires the Board make recommendations to the Governor that would improve the economic well-being of the region and the quality of life of its residents.

7) Requires the Green EZ to produce a report each year that includes recommendations for action by the Legislature and the progress of the zone, and to post the report on its internet website, as specified.

8) Makes findings and declarations as to a special statute for the Contra Costa County.

Background

Promise Zones and Opportunity Zones as Efforts to Increase Economic Development. In the last decade, efforts such as Promise Zones and Opportunity Zones have emerged as a way to support the country's most disadvantaged and economically-distressed geographical locations and communities. Generally speaking, Promise Zones are high-poverty areas that are eligible for various tax credits in order to create jobs and spur investment. These zones also receive governmental aid and partnership in the form of assistance to reduce crime and recidivism, as well as increase educational opportunities. There are currently 22 Promise Zones in the United States.

Originally created via the federal 2017 Tax Cuts and Jobs Acts, Opportunity Zones are economically-distressed areas where private investments may be eligible for capital gain tax incentives, under certain conditions. According to the Brookings Institute, "Opportunity Zones offer favorable capital gains treatment for taxpayers with unrealized gains who invest in designated low-income communities." Only

investors with pre-existing capital gains and those who anticipate facing future capital gains taxes qualify for Opportunity Zone tax benefits. Both of these efforts are examples of programs meant to increase economic development in areas that need assistance.

California's Green Energy and Economy Efforts. California has been a leader in prioritizing green energy and a green economy. In 2006, AB 32 (Nunez, Chapter 488, Statutes of 2006) required CARB to determine the 1990 statewide GHG emissions level and approve a statewide GHG emissions limit that was equivalent to that level, to be achieved by 2020, and to adopt GHG emissions reductions measures by regulation. AB 32 (Pavley, Chapter 249, Statutes of 2016) modified this goal slightly, requiring CARB to ensure statewide GHG emissions are reduced to 40% below the 1990 level by 2030. In 2018, Governor Jerry Brown signed SB 100 (Grayson, Chapter 312, Statutes of 2018), which increased the RPS requirement from 50 to 60 percent by 2030, and created a policy which endeavors to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045. Governor Brown also signed an Executive Order in 2018 requiring that California reduce its net output of greenhouse gases to zero by 2045. Governor Newsom has engaged in a number of climate-related efforts as well, including issuing an Executive Order requiring sales of all new passenger vehicles to be zero-emission by 2035, requiring the end of new permits for hydraulic fracturing (or "fracking") by January 2024, and requesting that CARB analyze how to phase out oil extraction in California by 2045. According to the EPA, the oil and gas sector, and refineries specifically, are some of the highest overall contributors to GHG emissions.

Contra Costa County, Oil Refineries, and their Economies. According to the Los Angeles County Economic Development Corporation, in 2017 the Oil and Gas Industry in California provided 152,100 direct employment jobs and 365,970 jobs in the state, which makes up about 1.6% of the state's overall employment. The Bay Area is the second largest oil refining center on the West Coast. It is home to five refineries; four of those five refineries are in Contra Costa County.

Given the state's mandates and goals to produce a clean-energy economy in the next few decades, the author says "it is a matter of equity and economic justice that we support the growth of high-paying jobs and industry to replace the ones that are being phased out." The phasing out of industries such as coal in West Virginia without a transition plan have had a devastating effect on the state's economy in regions where the coal industry was a primary employer. For example, where the coal industry used to provide more than 100,000 jobs to West Virginians in the 1950s, it now provides less than 20,000. The region is also grappling with

increased drug addiction rates. This bill is the author's attempt to avoid a similar outcome in his district.

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

SUPPORT: (Verified 9/1/21)

California Professional Firefighters
Contra Costa County
East Bay Leadership Council

OPPOSITION: (Verified 9/1/21)

None received

ARGUMENTS IN SUPPORT: The California Professional Firefighters write in support: "Covering a number of cities throughout both Contra Costa and Solano Counties, the newly established Green Empowerment Zone would seek to encourage and prioritize investments and projects that both revitalize the economies of its local jurisdictions as well as advance important sustainability goals. The Green Empowerment Zone will be governed by a board of directors comprised of individuals representing the local government entities that have opted into the program, employers, labor groups, state agencies, and others. By bringing together a diverse coalition of experts and representatives of their communities, this board seeks to identify the projects that are best suited to the overall goals of the Green Empowerment Zone, as well as reviewing policies and legislation to ensure that they are beneficial to the represented counties and local jurisdictions.

"The ongoing movement towards a greener economy, energy production, and manufacturing requires must be undertaken thoughtfully to ensure that communities and individuals are not harmed by rapid changes to previously established systems. AB 844 seeks to bring together representatives of communities that are at the center of much of this transition, and empowers them to advocate for projects, programs, and investments that best address these changes and growth."

Contra Costa County writes in support: "We appreciate Assembly Member Grayson's leadership on this bill, the purpose of which is to build on the comparative advantage provided by the regional concentration of highly-skilled energy industry workers by prioritizing access to tax incentives, grants, loan programs, workforce training programs, and private sector investment in the renewable energy sector. Given the state's mandates and goals to produce a sustainable clean-energy economy, we agree that "it is a matter of equity and

economic justice that we support the growth of high-paying jobs and industry to replace the ones that are being phased out.

"Governed by a board of directors comprised of individuals representing local government entities that have opted in, employers, labor groups, state agencies, educational institutions, and workforce and economic development agencies, AB 844 brings together communities at the center of energy transition and empowers them to advocate for projects, programs, and investments that best address these changes and growth opportunities."

The East Bay Leadership Council writes in support: "On behalf of the East Bay Leadership Council, a regional public policy and advocacy organization representing hundreds of employers across Contra Costa and Alameda Counties, I write in strong support of Assembly Bill 844. Our organization has more than eighty years of history in support of our mission to improve economic vitality and quality of life. This work has included supporting the Northern Waterfront Economic Development Initiative which has sought to preserve industrial land to encourage the creation of high wage, high skill jobs along the northern Waterfront of Contra Costa. AB 844 would build upon this momentum by authorizing the establishment of a Green Empowerment Zone for the Northern Waterfront area of the County of Contra Costa. The Green Empowerment Zone will be managed by a Board of Directors who will work collaboratively to Identifying projects and programs, work with state and federal officials and partner with educational institutions to boost economic vitality."

ASSEMBLY FLOOR: 74-0, 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, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Chen, Eduardo Garcia, Gray, Patterson

Prepared by: Dana Shaker / B., P. & E.D. /
9/2/21 16:30:22

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

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

THIRD READING

Bill No: AB 857
Author: Kalra (D), et al.
Amended: 8/25/21 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/7/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE JUDICIARY COMMITTEE: 8-2, 7/13/21
AYES: Umberg, Durazo, Gonzalez, Hertzberg, Laird, Skinner, Stern, Wieckowski
NOES: Borgeas, Jones
NO VOTE RECORDED: Caballero

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 43-21, 5/6/21 - See last page for vote

SUBJECT: Employers: Labor Commissioner: required disclosures

SOURCE: California Rural Legal Assistance Foundation

DIGEST: This bill (1) requires agricultural employers to provide farmworkers brought to California from abroad under the federal H-2A program with a notice summarizing their workplace rights under state law; (2) directs the Labor Commissioner to develop a template that agricultural employers can use to fulfill this requirement; and (3) codifies the circumstances when H-2A farm workers must be paid at their regular rate of pay for time spent traveling to work.

Senate Floor Amendments of 8/25/21 make changes to the travel time compensation provisions, which (1) clarify when travel time compensation begins; (2) define "regular rate of pay"; and (3) remove the statement that the travel time compensation provisions are "declaratory of existing law."

ANALYSIS:

Existing law:

1) Empowers the Labor Commissioner's office, within the Department of Industrial Relations, with ensuring a just day's pay in every workplace in the State and promote economic justice through robust enforcement of labor laws. (Labor Code (LC) §79-107)

2) Establishes the federal H-2A Program for Temporary Agricultural Workers allowing U.S. employers or agents who meet specific regulatory requirements to bring foreign nationals to the United States to fill temporary agricultural jobs. Among other things, existing federal law specifies that as a condition for approval of such a petition, the Secretary of Labor must certify that:
   a) there are not sufficient workers who are able, willing, and qualified to perform the labor or services involved in the petition, and
   b) the employment of the foreign agricultural worker will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. (Title 8 U.S. Code Section §1188)

3) Requires that employers, at the time of hire, provide to each employee a written notice, in the language the employer normally uses to communicate employment-related information to the employee, containing, among other things, the following information:
   a) The rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any overtime rate.
   b) Allowances, if any, including meal or lodging allowances.
   c) The name and physical address of the employer's main office or principal place of business, mailing address, if different, and the telephone number.
   d) The name, address, and telephone number of the employer's workers' compensation insurance carrier. (LC §2810.5)

4) Specifies that an employer shall notify his or her employees in writing of any changes to the information set forth in the notice (per above) within seven calendar days, as specified, and requires the Labor Commissioner to prepare, and make available to employers, a template with the information specified above. (LC §2810.5)

5) Specifies that a tenant who is an agricultural employee residing in employee housing has all rights applicable to a person residing in employee housing, including, among others, the following: (a) the right to file a verified complaint with the Department of Fair Employment and Housing alleging a violation of

housing discrimination, or to assert any other right, under the Fair Employment and Housing Act; and (b) any protections for tenants or lessees under the Civil Code or the Labor Code, except as otherwise provided in Section 17031.6. (Health and Safety Code §17008.5)

This bill:

1) Requires the workplace rights notice under LC Section 2810.5, which applies to employers in *all industries*, to also include notifying employees of federal or state emergency or disaster declarations applicable to the county(ies) where the employee is employed that may affect their health and safety.

2) Enacts "The California Legal Rights Disclosure Act for H-2A Farmworkers" requiring employers of H-2A employees to provide, on the first day of work with the original petitioner or transferred employer, a written notice in Spanish that includes information on H-2A employee's rights pursuant to federal and state law, including, among other things:
   a) Mandatory Wage Rate (per Code of Federal Regulations (CFR), 20 CFR § 655.120)
   b) Overtime Wage Rates (per LC § 857-864)
   c) Required Pay Periods (per LC §205-205.5)
   d) Required Rest and Meal Periods (per LC §512)
   e) Travel time while transported by H-2A employer from the employee's housing to the employer's worksite, when specified criteria is met, must be compensated at their regular rate of pay.
   f) Housing Protections and Tenant Rights (per 20 CFR § 655.120; Health and Safety Code §17008.5)
   g) No Retaliation for Exercise of Labor Rights (per LC §96-98.6)
   h) Itemized Wage Statements for Hourly/Piece-Rate Employees (per LC §226, §226.2)
   i) Required Sexual Harassment Training (per LC §1684)
   j) Required Toilets, Handwashing Facilities and Drinking Water (per California Code of Regulations (CCR) Title 8, Section 3457. Field Sanitation).
   k) Protections from High Heat Working Conditions (per CCR, Title 8, Section 3395. Heat Illness Prevention in Outdoor Places of Employment).
   l) Required Pesticide Exposure Protections (per LC §6300-6721)
   m) Required Workplace Safety Training (per CCR, Title 8, Section 3203. Injury and Illness Prevention Program)
   n) Transportation in Defined "Farm Labor Vehicles." (per 20 CFR 655.102)

o) No Employer Charges Permitted for Tools or Equipment. (per 20 CFR 655.122)
p) Workers' Compensation for Injuries or Illness (per LC §3700)
q) Mandatory night time work protections (*codified with this bill*).

3) Requires the Labor Commissioner to prepare a template for H-2A employers, in Spanish and English, with substantially the same information as set forth above in a separate and distinct section of the template titled: "Summary of Key Legal Rights of H-2A Workers under California Laws." This information shall be combined with the notice template required under current law.

4) Requires employers to also notify H-2A employees of any federal or state emergency or disaster declaration and recommendations applicable to the county/counties where they are employed that may affect their health and safety, as specified.

5) Prohibits an H-2A employer from retaliating against an H-2A employee for raising questions about the declarations' requirements or recommendations.

6) Codifies night work safety standards for agriculture that obligate an employer to provide, among other things, reflective garments, specified lighting, and daily safety meetings.

7) Specifies, as being declaratory of existing law, that an H-2A employee is required to be compensated by an H-2A employer at their regular rate of pay for time spent while being transported by the employer to or from the housing provided by the employer to or from the worksite when the H-2A employee:
   a) has no personal vehicle;
   b) cannot take public transportation to or from the worksite(s); and
   c) has no other real alternative than to take the transportation provided by the employer or agent; or
   d) when the H-2A employee is required by the employer or agent to take transportation provided or paid for by the employer or agent.

8) Exempts from the provision of compensation for travel time, as specified above, H-2A employees who are covered by a collective bargaining agreement (CBA) if all of the following conditions are met:
   a) The employee and all other H-2A and/or farm labor contractor employees working for the same agricultural employer are covered by all the terms of a CBA covering directly hired employees, including pay for travel time.
   b) The CBA contains a grievance and arbitration procedure providing for resolution of disputes concerning transportation and payment of wages.

c) The employer provides the federal Adverse Effect Wage Rate to all employees performing the same work regardless of whether they are directly hired or hired through a farm labor contractor or H-2A contractor.
d) The CBA provides for compensation through fringe benefits that exceed the actual monetary value employees would have received as compensation for travel time.
e) The CBA requires that the employer is obligated to maintain contemporaneous daily records of the time actually spent by the H-2A employee being transported by the employer or its agents to or from the housing provided to the worksite, and that the employer keep and maintain these records for three years after the termination of the H-2A employee.

9) Requires that the template be made available to employers in a manner determined by the Labor Commissioner, but shall be posted on the Labor Commissioner's Internet website commencing January 2, 2022.

10) Requires the Labor Commissioner to revise the template, as necessary, to:
a) Provide, update, or expand useful agency contact information.
b) Correct inconsistencies with current laws or regulations, including, adding, deleting, or changing information because of new developments in case law.
c) Add any other information that the Labor Commissioner deems material and necessary.
d) Add or delete information because of the enactment or repealing of laws or regulations.

11) Makes several findings and declarations pertaining to H-2A workers and their potential limited knowledge of legal rights and remedies under California law and that neither federal nor state law requires employers to notify them of the existence of either federal or state emergency or disaster declarations.

Background

The federal H-2A program allows U.S. employers or U.S. agents who meet specific regulatory requirements to bring foreign nationals to the United States to fill temporary agricultural jobs. H-2A employers must provide housing at no cost to H-2A workers and to workers in corresponding employment who are not reasonably able to return to their residence within the same day. Employer-provided or secured housing must meet all applicable safety standards. Regarding transportation, employers are required to provide daily transportation between the workers' living quarters and the employer's worksite at no cost to covered workers living in employer-provided housing. Employer-provided transportation must meet

all applicable safety standards, be properly insured, and be operated by licensed drivers. (NOTE: *Please see policy committee analysis for more background information on compensation for travel time to and from work.*)

Comments

Need for this bill? According to the author, "These H-2A workers are recruited from Mexico and brought to California to work in the agricultural industry. Housing is provided by the employer but the workers have no vehicles or access to public transportation to help them get to the employer's worksites, so they generally must rely on transportation arranged by the employer. Many of these workers also are unaware of their basic state work place protections, such as overtime, meal and rest period breaks, and are some of the most historically exploited workers in the agricultural industry. According to EDD, in recent correspondence to CRLAF, there were approximately 107 California employers in 2019 that imported more than 23,000 H-2A farm workers."

Related/Prior Legislation

AB 364 (Rodriguez, 2021) extends licensing requirements to foreign labor contractors who recruit or solicit foreign agricultural workers. (Pending in the Senate Appropriations Committee.)

SB 1102 (Monning, 2020**)**, which was vetoed, was substantially similar to this bill. AB 857 includes sections specifically adding compensation for travel time in labor code, which SB 1102 did not include. In his veto message of SB 1102, Governor Newsom stated, "While I applaud the intent of this bill to create accessible and easy to understand notifications, this statutory construction departs from previous H2-A notice requirements like those found in Labor Code Section 2810.5 and prevents the agency from amending the template when new laws are passed or new court decisions affect the rights and obligations of H2-A employers and workers. Therefore, I am directing my Labor and Workforce Development Agency to develop and maintain a template contemplated in this bill to make available to H2-A employers, and I am returning SB 1102 without my signature."

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

SUPPORT: (Verified 8/25/21)

California Rural Legal Assistance Foundation (source)
California Alliance for Retired Americans
California Employment Lawyers Association
California Immigrant Policy Center

California Labor Federation
California Teamsters Public Affairs Council
Central Coast Alliance United for a Sustainable Economy
Centro de los Derechos del Migrante
Coalition to Abolish Slavery & Trafficking
Consumer Attorneys of California
Equal Rights Advocates
Farmworker Justice
United Farm Workers
United Food and Commercial Workers, Western States Council
Worksafe

OPPOSITION: (Verified 8/25/21)

Agricultural Council of California
California Association of Winegrape Growers
California Chamber of Commerce
California Citrus Mutual
California Farm Bureau Federation
California Fresh Fruit Association
California Food Producers
California Women for Agriculture
Family Winemakers of California
Ventura County Agricultural Association
Western Growers Association

ARGUMENTS IN SUPPORT: According to this bill's sponsor, California Rural Legal Assistance Foundation, "This bill addresses a singular problem faced by tens of thousands of foreign contract farm workers entering California under federally-approved job offers that often include terms and conditions that are illegal under California law, with no state or federal agency charged with providing these vulnerable guest workers with an accurate summary of current state law rights that exceed federal law protections."

On travel time compensation, the sponsor writes, "As we have pointed out, courts have found that travel time by H-2A farm workers from the employer's housing to the employer's fields is time under the control of the employer—if the employee has no real choice but to take that transportation—and is therefore compensable at their regular rate of pay. AB 857 simply restates the most common transportation factual pattern where H-2A farm workers have no real choice: 1) they have no personal vehicle; 2) they can't take public transportation; and 3) they have no other

real alternative than to get on the employer's bus. Putting this in the AB 857 notice ensures that these H-2A farm workers get appropriate information about when they must be paid for their travel time."

ARGUMENTS IN OPPOSITION: A coalition of agricultural employers write, "California's ongoing increases to the minimum wage, overtime rules, nitrate/irrigated land program mandates, loss of crop protection tools, and regulatory restrictions on water supply threaten the survival of our family farms. The COVID-19 pandemic has further compounded the challenges that we face as an industry and has caused economic devastation for far too many. At a time when the industry is struggling most, AB 857 proposes unnecessary and costly changes in law." About travel time compensation, they argue, "AB 857 changes law and creates a right that is contrary to long established judicial precedence. AB 857 falsely states that it "is declaratory of existing law." In reality, this bill attempts to *change the law* by expanding the definition of "voluntary" and "mandated" travel time, as decided by the California Supreme Court in *Morillion v. Royal Packing (2000).* Therefore, AB 857 adds new situations whereby travel time would be required to be paid to H-2A employees."

They conclude, "This bill significantly mirrors SB 1102 (Monning) which was *vetoed by Governor Newsom. ...* We strongly believe that the Governor's direction outlined in the veto message should proceed without the interference of AB 857."

ASSEMBLY FLOOR: 43-21, 5/6/21
AYES: Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Holden, Jones-Sawyer, Kalra, Lee, Low, Maienschein, McCarty, Medina, Muratsuchi, Nazarian, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Levine, Mathis, Nguyen, Patterson, Quirk, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Aguiar-Curry, Choi, Cooper, Daly, Frazier, Grayson, Irwin, Mayes, Mullin, O'Donnell, Petrie-Norris, Quirk-Silva, Blanca Rubio, Villapudua

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/28/21 11:14:35

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

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

THIRD READING

Bill No: AB 858
Author: Jones-Sawyer (D), et al.
Amended: 7/15/21 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 7/5/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE HEALTH COMMITTEE: 8-1, 7/14/21
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Rubio, Wiener
NOES: Melendez
NO VOTE RECORDED: Grove, Roth

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 52-15, 6/2/21 - See last page for vote

SUBJECT: Employment: health information technology: clinical practice guidelines: worker rights

SOURCE: California Nurses Association

DIGEST: This bill (1) prohibits a general acute care hospital (GACH) from limiting a worker providing direct patient care from exercising independent clinical judgement, as specified; (2) authorizes a worker who provides direct patient care at a GACH to override health information technology and clinical practice guidelines, as specified; and (3) prohibits a GACH from retaliating against a worker providing direct patient care for overriding health information technology and clinical practice guidelines.

ANALYSIS:

Existing law:

1) Establishes within the Department of Industrial Relations the Office of the Labor Commissioner (LC) to enforce wage and hour law, prevent worker retaliation, and oversee the registration of certain businesses. (Labor Code § 82 et seq.)

2) Establishes the Department of Public Health (DPH) to license and regulate health facilities. (Health & Safety Code § 131000 et seq.)

3) Establishes the Department of Consumer Affairs to provide a safe and fair marketplace through oversight, enforcement, and licensure of professions including vocational and registered nursing by the Board of Registered Nursing (BRN) and of physicians by the Medical Board of California (MBC). (Business & Professions Code § 100 et seq.)

4) Prohibits a health facility from discriminating or retaliating, in any manner, against a patient, employee, member of the medical staff, or other health care worker of the health facility because that person has done either of the following:

    a) Presented a grievance, complaint, or report to the facility, to an entity or agency responsible for accrediting or evaluating the facility, or the medical staff of the facility, or to any other governmental entity; or,

    b) Has initiated, participated, or cooperated in an investigation or administrative proceeding related to the quality of care, services, or conditions at the facility that is carried out by an entity or agency responsible for accrediting or evaluating the facility or its medical staff, or governmental entity. (Health & Safety Code § 1278.5)

5) Makes a violation of 4) above subject to a civil penalty of not more than $25,000. (Health & Safety Code § 1278.5 (b) (3))

6) Defines the practice of nursing as those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill, including all of the following:

a) Direct and indirect patient care services that ensure the safety, comfort, personal hygiene, and protection of patients; and, the performance of disease prevention and restorative measures;

b) Direct and indirect patient care services, including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist;

c) The performance of skin tests, immunization techniques, and the withdrawal of human blood from veins and arteries; and,

d) Observation of signs and symptoms of illness, reactions to treatment, general behavior, or general physical condition, and (i) determination of whether the signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and (ii) implementation, based on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or changes in treatment regimen in accordance with standardized procedures, or the initiation of emergency procedures. (Business and Professions Code § 2725)

7) Defines "standardized procedures," for the purpose of 6) above, as meaning either of the following:

a) Policies and protocols developed by a health facility through collaboration among administrators and health professionals including physicians and nurses; and,

b) Policies and protocols developed through collaboration among administrators and health professionals, including physicians and nurses, by an organized health care system. (Business and Professions Code § 2725 (c))

8) Requires the policies and protocols to be subject to any guidelines for standardized procedures that the MBC and the BRN may jointly promulgate. (Business and Professions Code § 2725 (c))

9) Prohibits a person from discharging, discriminating against, retaliating, or taking adverse action against an employee because the employee engaged in conduct protected pursuant to applicable labor statutes, as specified. Protected acts include filing a complaint relating to the employee's rights under the LC's

jurisdiction or initiating any action pursuant to a civil claim under the Private Attorneys General Act (PAGA). (Labor Code § 98.6)

10) Authorizes a person who believes they were discharged or otherwise discriminated against in violation of any law under the LC's jurisdiction to file a complaint, as specified, which shall than be investigated pursuant to the LC's established procedures. (Labor Code § 98.7)

11) Provides, under PAGA, that a person may seek recovery of a civil penalty assessed and collected by the Labor and Workforce Development Agency et al., through a private civil action brought by an aggrieved employee on behalf of the employee and other current or former employees pursuant to specified procedures. (Labor Code § 2699 et seq.)

This bill:

1) Prohibits the use of technology from limiting a worker who is providing direct patient care from exercising independent clinical judgment in assessment, evaluation, planning and implementation of care, or from acting as a patient advocate.

2) Authorizes each worker who provides direct patient care at a GACH to override health information technology and clinical practice guidelines if it is in the best interest of the patient to do so in their professional judgment and in accordance with their scope of practice, which includes receiving the approval of the patient's physician, or doctor of podiatric medicine.

3) Prohibits a GACH from retaliating or otherwise discriminating against a worker providing direct patient care who requests to override, or who discusses with other employees or supervisors about overriding, health IT and clinical practice guidelines. Grants a worker who is subject to retaliation or discrimination the right to file a complaint with the LC against a GACH who retaliates or discriminates against the employee.

4) Requires each GACH to notify all workers who provide direct patient care (and their representatives, if subject to a collective bargaining agreement) prior to implementing new information technology that materially affects the job of the workers or their patients.

5) Requires each GACH to ensure that its workers that provide direct patient care receive appropriate education or training on how to utilize the new technology and to understand its limitations.

6) Requires GACHs to take into consideration the worker's patient care assignment when determining the appropriate method for training on new technology.

7) Requires GACHs to provide opportunities for workers providing direct patient care in the affected clinical areas to provide input in the implementation processes for new technology impacting patient care delivery.

8) Allows a GACH's professional practice committee representatives to recommend measures to improve the delivery of safe, therapeutic, equitable, and effective care in conjunction with the use of new technology. This bill also them to participate, when feasible, in the implementation processes whenever new technology affecting the delivery of medical or nursing care is under consideration.

9) Requires GACHs to protect patient's private medical information in accordance with the federal and state medical privacy laws when sharing technology in the design, building, and validation process for new technology, as specified.

10) Defines "technology" as scientific hardware or software including algorithms derived from the use of health care-related data, used to achieve a medical or nursing care objective at a GACH.

11) States legislative intent that new technology will continue to permit the exercise of professional clinical judgment in providing patient care and patient advocacy by workers providing direct patient care; that clinical technology is intended to complement, not diminish, skills, judgment, and decision making; and, that professional judgment, not algorithms, will determine the care needed by patient populations or individuals.

12) Prohibits anyone from construing this bill to limit a medical staff's right to establish, in medical staff bylaws, rules, or regulations, clinical criteria and standards to oversee and manage quality assurance, utilization review, and other medical staff activities pursuant to existing law.

13) States that this bill is not intended to prevent hospitals from directing staff to follow nationally recognized quality improvement guidelines or standards of care, including, but not limited to, those used or endorsed by the National Committee for Quality Assurance, the National Quality Forum, the Physician Consortium for Performance Improvement, the Agency for Healthcare Research and Quality, or other organizations recognized or used by the federal

Centers for Medicare or Medicaid Services or a department or agency of the State of California or any other commonly accepted standard or guideline for improving consumer health and patient outcomes, unless it is in the patient's best interest to depart from these guidelines.

14) Clarifies that this bill does not allow the override of any physician orders.

15) Allows, by placing these provisions in the Labor Code, aggrieved workers to bring a private action civil lawsuit against the GACH under PAGA.

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

According to the Senate Appropriations Committee, the Department of Industrial Relations indicates that it would incur first-year costs of $3.4 million, and $3.2 annually thereafter, to implement the provisions of this bill.

SUPPORT: (Verified 8/27/21)

California Nurses Association (source)
California Department of Insurance
California Labor Federation, AFL-CIO

OPPOSITION: (Verified 8/27/21)

California Hospital Association

ARGUMENTS IN SUPPORT: According to the California Nurses Association:

This bill will protect professional clinical judgment when providing patient care in hospitals, which is of the utmost importance to nurses.

Technology should be used to complement, not diminish, skills, judgment, and decision-making of healthcare providers. It should not limit independent professional clinical judgment or a healthcare workers ability to act as a patient advocate. Yet our patients are forced to interact with a deeply flawed medical technological system, that among many issues…has been shown to exhibit significant racial bias.

Specifically, AB 858 will allow a healthcare worker providing direct patient care to override health information technology and clinical practice guidelines if, in their professional judgement, and in accordance with their scope of practice, which includes the approval of the patient's physician, if it is in the best interest of the patient to do so.

ARGUMENTS IN OPPOSITION: According to the California Hospital Association (CHA):

> (This bill) seeks to allow nurses and clinicians to override algorithms used for best clinical practices. It also outlines activities hospitals should take to utilize employee health IT, education, training, and quality assurance, which already exist in hospitals and health systems. And finally, there are complex hospital operational processes currently in place to assure quality patient care. If enacted, this bill would expose hospitals to untenable liability issues. (We believe)…much of this bill is unwarranted and replicates regulations already in place in California Business and Professions (B&P) Code and California Health and Safety (H&S) Code.

ASSEMBLY FLOOR: 52-15, 6/2/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Mathis, Nguyen, Patterson, Petrie-Norris, Smith, Valladares, Voepel
NO VOTE RECORDED: Arambula, Bigelow, Bryan, Chen, Cooper, Daly, Frazier, Lorena Gonzalez, Irwin, Mayes, Quirk-Silva, Blanca Rubio

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
8/28/21 11:14:36

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

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

THIRD READING

Bill No: AB 861
Author: Bennett (D)
Amended: 9/1/21 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-1, 6/15/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Laird, Stern, Wieckowski, Wiener
NOES: Jones
NO VOTE RECORDED: Borgeas, Hertzberg

ASSEMBLY FLOOR: 41-20, 5/10/21 - See last page for vote

SUBJECT: Mobilehome parks: rental restrictions: management

SOURCE: Author

DIGEST: This bill confirms and codifies existing law which provides that if a mobilehome park prohibits park residents from renting or subleasing their mobilehomes, then the park itself is bound by the same rule as to mobilehomes that the park owns.

Senate Floor Amendments of 9/1/21 exempt non-profit or government-owned mobilehome parks that are subject to affordability restriction to the extent of the restriction.

ANALYSIS:

Existing law:

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

2) Specifies that the owner of the park, and any person employed by the park, shall be subject to, and must comply with, all park rules and regulations, to the same extent as residents and their guests, except as follows:

a) Any rule or regulation that governs the age of any resident or guest.

b) Acts of a park owner or park employee which are undertaken to fulfill a park owner's maintenance, management, and business operation responsibilities. (Civ. Code § 798.23.)

3) Requires mobilehome rental agreements to be in writing and include certain information including the term of the tenancy and rent as well as the rules and regulations of the park. (Civ. Code § 798.15 *et seq*.)

4) Prohibits a mobilehome owner from charging a renter or sublessee more than an amount necessary to cover the cost of space rent, utilities, and scheduled loan payments on the mobilehome, if any. (Civ. Code § 798.23.5(c).)

5) Allows local jurisdictions to impose mobilehome rent control laws, provided that parks can still earn a fair return on their investment. (*Cacho v. Boudreau* (2007) 40 Cal.4th 341, 350.)

This bill:

1) Specifies that park management shall be subject to, and must comply with, all rules and regulations that prohibit a homeowner from renting or subleasing a homeowner's mobilehome or mobilehome space.

2) Establishes that, if a rule or regulation has been enacted that prohibits either renting or subleasing by a homeowner, park management shall not directly rent a mobilehome that the park owns.

3) Creates an exception to 2) above, allowing park management to sublease or rent out mobilehomes that the park owns as follows:

a) A maximum of two mobilehomes, plus one additional mobilehome for every 200 mobilehomes in the park, for use as on-site employee housing, as defined.

b) Any mobilehome where there is an existing tenancy as of January 1, 2022 for as long as any tenant listed on the lease continues to occupy the mobilehome.

4) Exempts from (1) through (3), above, non-profit and government-owned or controlled mobilehome parks that are subject to affordability restrictions, as to those mobilehomes or mobilehome sites that are subject to the restrictions.

Comments

1) *Existing law generally requires mobilehome parks to abide by their own rules*

Since 1993, the MRL has contained a provision requiring the owner of a mobilehome park, and any person employed by the park, to abide by all park rules and regulations to the same extent as the park's residents and their guests. (Civ. Code § 798.23(a).) The provision only allows for two exceptions: (a) rules governing the age of residents or guests; and (b) things done by park owners or employees to fulfill maintenance, management, and business operation responsibilities. (Civ. Code § 798.23(b).)

2) *Attorney General Opinion applying existing law to renting and subleasing*

There has been a longstanding dispute over how exactly Civil Code Section 798.23 applies in the context of subleasing and rental of mobilehomes. While the plain language appears to suggest otherwise, some parks apparently insist that Section 798.23 does not prevent them from renting out the mobilehomes that they own, even as they deny that same possibility to the park residents who own their own homes.

In an attempt to put the controversy to rest, in 2013, then-Assemblymember Das Williams requested a legal opinion on the subject from the California Attorney General. (96 Ops. Cal. Atty. Gen. 29 (2013).) The Attorney General's response was clear:

> If the management of a mobilehome park has enacted rules and regulations generally prohibiting mobilehome owners from renting their mobilehomes, is park management bound by these same rules and regulations?
>
> CONCLUSION
>
> With the possible exception of rentals to park employees under appropriate circumstances that satisfy certain statutory requirements, if the management of a mobilehome park has enacted rules and regulations generally prohibiting mobilehome owners from renting their mobilehomes, then park management is also bound by these same rules and regulations. (*Ibid* at 1.)

This bill is a straightforward codification of the Attorney General's conclusion. The author and sponsor state that such a codification is needed even though it is declaratory of existing law because, even in the wake of the Attorney General Opinion, some parks continue to prohibit their residents from renting out their units even as the park rents out its own units.

3) *Background policy issues regarding subleasing in the mobilehome context*

Despite the strong argument that this bill does no more than codify existing law, this bill is contentious. This reflects longstanding policy debate between parkowners and residents regarding the merits of allowing renting and subleasing in the context of mobilehomes. That policy debate is well summarized at the outset of the Attorney General's Opinion as follows:

> Park owners who favor [prohibitions on renting and subleasing] have observed that, whereas a "rental agreement" under the MRL is a contract between park management and a homeowner, a homeowner's subsequent rental of his or her mobilehome, and subletting of the space on which the mobilehome is situated, creates a contract only between the homeowner/tenant and the tenant's renter/sublessee. Some park owners maintain that the absence of any contract privity between park management and a park tenant's renter/sublessee makes enforcement of park rules and regulations difficult, to the potential detriment of other park residents, because under such circumstances, management can enforce the rental agreement (and its associated rules and regulations) only against the homeowner/sublessor, who in some or many cases may no longer reside in the park. No-renting/no-subletting rules are also warranted, some park owners say, because permitting homeowners to rent their mobilehomes and sublet their spaces could result in a park composed of multiple absentee landlords or a few landlords who purchase mobilehomes in order to engage in rental as a business enterprise. Such a circumstance, we are told, can lead to degradation of the park's overall physical and social environment.
>
> Some mobilehome owners, on the other hand, complain that no-renting/no-subletting rules often unreasonably hamstring homeowners, whose homes have been recognized as difficult and expensive to relocate. When the option of renting a mobilehome is not available because park rules prohibit such rentals and/or subletting the mobilehome space, a mobilehome owner who wants or needs to leave his or her mobilehome-residence at a park where such rules are imposed must either sell or abandon the mobilehome. (96 Ops. Cal. Atty. Gen. 29 (2013) at 4-5.)

On top of these concerns, the author adds his belief that parks commonly purchase and rent out mobilehomes as a way to get around local rent control laws, thus reducing the amount of affordable housing in the park.

4) *How to handle on-site employee housing?*

This bill in print codifies an exception, recognized in the Attorney General's Opinion, that parks may rent out park-owned mobilehomes to park employees even where the park generally prohibits resident homeowners from renting out their units to others. This is consistent with existing law that says parks need not abide by the same rules as they impose on their residents and their residents' guests when undertaking maintenance, management, and business operation responsibilities. (Civ. Code § 798.23(b)(2).)

In correspondence with the Senate Judiciary Committee, park owners have pointed out that a strict rule against renting to non-employees would creates a practical problem. Generally, parks will maintain ownership of at least one or two mobilehomes in order to be able to rent them out to employees who will live on-site. At times, however, the on-site employees will own their own mobilehome in the park and have no need to rent a mobilehome from the park. If the parks were subject to a rule prohibiting them from ever renting out a park-owned mobilehome to anyone except a park employee, park-owned mobilehomes would have to sit vacant during periods in which the on-site employees happen to own their own mobilehome. Such vacancies would be an inefficient use of available housing.

To try to avoid that outcome while still restricting parks' ability to rent park-owned mobilehomes when they do not permit residents to do the same, this bill uses a simple formula. In parks that do not allow their residents to rent or sublease their mobilehomes, the park itself would be limited to owning and renting out two mobilehomes, plus one more for every 200 mobilehomes in the park. Thus, a park with 30 mobilehomes could own and rent out two of them; a park with 205 mobilehomes could own and rent out three of them; a park with 460 mobilehomes could own and rent out four of them; and so on, even if the park prohibits residents from renting out their mobilehomes. This formula should provide parks with a sufficient supply of housing to rent out to on-site employees, without forcing parks to leave one of those mobilehomes vacant during times when the mobilehome is not needed for employee housing.

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

SUPPORT: (Verified 6/17/21)

Disability Rights California
Golden State Manufactured Homeowners League
Four individuals

OPPOSITION: (Verified 6/17/21)

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

ARGUMENTS IN SUPPORT: According to the author:

> The MRL states that park management, employees, and residents are subject to the rules and regulations of the park, but this has often gone unenforced. Clarifying this section of the MRL will prevent an unfair double standard from arising, one where park management are able to rent and sublease their spaces while residents are not. It is important to me that park residents are protected and treated fairly because for a low-income park resident, losing housing is much more devastating than it is for traditional renters. For park residents, losing housing means paying high fees to relocate their home or potentially losing lifelong investments.

In support of this bill, the Golden State Manufactured Homeowners League writes:

> The [MRL] allows park management to prevent homeowners from renting out their manufactured homes or subletting the space where their mobilehome is located. Although the law states that all park rules apply equally to owners and residents, some park owners felt that rules regarding renting and subleasing did not apply to owners. […] AB 861 would avoid an unfair double-standard by clarifying current MRL and codifying the Attorney General Opinion requiring park management to comply with all park rules relating to renting and subleasing manufactured homes and units without limiting their ability to rent or sublease to a park employee.

In support, Disability Rights California writes:

> DRC is aware of the injustices and challenges that are associated with renting and subleasing as a park resident. AB 861 would avoid an unfair double-standard by clarifying current MRL and codifying the Attorney General opinion requiring park management to comply with all park rules relating to renting and subleasing manufactured homes and units without limiting their ability to rent or sublease to a park employee.

ARGUMENTS IN OPPOSITION: In opposition to this bill, Western Manufactured Housing Communities Association (WMA) writes:

> Most residents (especially senior citizens) want to be ensured a certain quality of life and comfort that their neighbors know the rules and regulations and abide by them. Having residents adhere to rules and regulations helps ensure peace of mind and helps with home sales. If a resident sublets a home, where is there stability for the park, and how can the parkowner ensure a promised quality of life for other residents in the park? […] WMA believes AB 861 is bad housing policy because allowing subletting does not put one more roof over anyone's [sic] and eliminates housing which could be available to an incoming resident. We further believe this legislation diminishes the quality of life for all current residents.

In further opposition to this bill, the California Mobilehome Parkowners Alliance writes:

> Subleasing of a home by a resident who owns only their home and not the property it is installed on is fundamentally different than a parkowner who owns the property and the home and who has an obligation to maintain their community to the benefit of all park residents. We believe it is inappropriate to curtail a parkowner's management of their own property in this way. The bill also has the potential to reduce the supply of affordable housing in the market by creating a disincentive for parkowners to lease park-owned homes.

ASSEMBLY FLOOR: 41-20, 5/10/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Calderon, Carrillo, Cervantes, Chau, Chiu, Friedman, Gabriel, Cristina Garcia, Gipson, Lorena Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Rendon
NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Flora, Frazier, Gallagher, Kiley, Lackey, Levine, Mathis, Nguyen, Petrie-Norris, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Arambula, Burke, Chen, Cooley, Cooper, Daly, Fong, Eduardo Garcia, Gray, Grayson, Mayes, Patterson, Ramos, Rodriguez, Blanca Rubio, Villapudua, Wood

Prepared by: Timothy Griffiths / JUD. / (916) 651-4113
9/2/21 16:30:28

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

SENATE RULES COMMITTEE AB 865
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 865
Author: Quirk-Silva (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/23/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

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: 78-0, 5/27/21 - See last page for vote

SUBJECT: Childcare services: alternative payment programs: direct deposits: reserve funds

SOURCE: California Alternative Payment Program Association

DIGEST: This bill (1) requires alternative payment programs (APPs) to reimburse childcare providers based on the maximum certified hours of need, rather than actual hours of care provided, and (2) increases the percentage of funds APPs may retain as reserves.

ANALYSIS:

Existing law:

1) Defines "alternative payments" to include payments made by one childcare agency to another agency or provider for the provision of childcare and development services, and payments that are made by an agency to a parent for

the parent's purchase of childcare and development services. (Education Code § 8208)

2) Defines “alternative payment program” (APP) as a local government agency or nonprofit organization that has contracted with the California Department of Education (CDE) to provide alternative payments and to provide support services to parents and providers. (EC § 8208)

3) Authorizes the use of childcare and development funds for APPs in order to maximize parental choice in selecting an appropriate childcare setting, and establishes requirements regarding APPs. (EC § 8220 et seq.)

4) Requires childcare providers authorized to provide services using alternative payments to submit to the APP a monthly attendance record or invoice for each child who received services that, at a minimum, documents the dates and actual times care was provided each day. (EC § 8221.5)

5) Requires APPs to reimburse providers in accordance with a biennial Regional Market Rate survey (care costing no more than 1.5 market standard deviations above the mean cost of care for that region), and prohibits payments in excess of the applicable regional market rate (RMR). (EC § 8222)

6) Authorizes licensed childcare providers to alter rate levels for subsidized children once per year. (EC § 8222)

7) Requires APPs to verify provider rates at least once a year, by randomly selecting 10 percent of licensed childcare providers serving subsidized families, to confirm that the rates reported to APPs reasonably correspond to those charged to nonsubsidized families for equivalent levels of service. (EC § 8222)

8) Requires the CDE to request the State Controller, upon the request of a childcare contractor, to make payments via direct deposit by electronic funds transfer through the Financial Information System for California (Fi$Cal) into the contractor’s account at the financial institution of the contractor’s choice, on or after the date on which the Superintendent of Public Instruction (SPI) determines that the Fi$Cal project has been implemented within the CDE. (EC § 8262.3)

9) Authorizes a contractor to retain a reserve fund balance for alternative payment model and certificate childcare contracts, and prohibits a contractor from retaining a reserve fund balance for these contracts of the greater of:

   a) $1,000, or

b) Two percent of the administration and supportive services portion of the contract. (EC § 8450)

This bill (1) requires alternative payment programs (APPs) to reimburse childcare providers based on the maximum certified hours of need, rather than actual hours of care provided, and (2) increases the percentage of funds APPs may retain as reserves. Specifically, this bill:

Reimbursement

1) Modifies the basis for which APPs reimburse childcare providers as follows:

   a) Eliminates the current criteria of (i) hours of service provided consistent with certified hours of need, and (ii) actual days and hours of attendance for families with variable schedules and for license-exempt providers of part-time care (up to the maximum certified hours).

   b) Establishes a new basis of reimbursement as the maximum certified hours of need, as documented on the certificate or voucher.

2) Deletes the authority for licensed childcare providers to alter rate levels for subsidized children once per year.

3) Deletes the requires that APPs verify provider rates at least once a year by randomly selecting 10 percent of licensed child care providers serving subsidized families.

Reserve fund balance

4) Increases the reserve amount allowed for alternative payment model and certificate childcare contracts, from 2 percent to 15 percent, of the administration and supportive services portion of the contract, or $1,000 (whichever is greater).

Miscellaneous

5) Makes technical changes, such as updating "a digital signature" to "an electronic signature."

Comments

Need for the bill. According to the author, "California's child care and early learning system is carried mainly on the backs of low-income Black and Brown women who are struggling more than ever to make ends meet. Our subsidized

child care system further harms the fiscal health of these family child care providers by only allowing for reimbursement when a family actually shows up. It does not factor in that a family child care provider must hold the slot for a child regardless of whether the child is in attendance or not. In the private sector, a payment for a child care slot is paid in full regardless of usage. "AB 865 would allow for family child care providers and centers to be reimbursed based on a family's maximum certified hours of need and not based on attendance. Further, it would require the State make direct deposit of contractor allocations and greater use of electronic communications to best support the needs of families. AB 865 will lessen the financial hardships imposed on California's family childcare providers. Further, it will remove discrepancies on family childcare providers that accept subsidized families and allow for parity with private pay providers."

Alternative Payment Programs (APPs). APP providers include licensed centers, licensed family childcare homes, and license-exempt care (family, friend, and neighbor). Licensed programs must adhere to the requirements of Title 22 of the California Code of Regulations and are reimbursed at the levels that are based on RMR. License-exempt providers must meet minimum health and safety standards. APPs are also referred to as "voucher" programs, as this system allows parents to be provided with a childcare voucher which the parent may use at the childcare provider of the parents' choice (not every type of childcare provider accepts a voucher).

Maximum certified hours of need. This bill modifies the basis for which APPs reimburse childcare providers to require they be reimbursed for the maximum certified hours of need, as documented on the certificate or voucher, rather than based upon hours/days of care provided (attendance). Childcare providers cannot predict the actual hours that a child will be in attendance, and therefore cannot predict the reimbursement that will be generated for this subsidized care. These providers often experience fiscal difficulties when actual reimbursements are below the "value" of the voucher, while fixed costs remain for the provider. This bill provides some parity with "slots" that are used by full-pay families, as the "slot" is paid for regardless of whether the child attends. This bill will likely result in the payment for subsidized slots for the hours or days when the child does not attend up to the maximum certified hours of need.

Reserve funds. This bill increases the reserve amount allowed for alternative payment model and certificate childcare contracts, from 2 percent to 15 percent, of the administration and supportive services portion of the contract, or $1,000 (whichever is greater). The author notes that increasing the allowable amount of

reserves is necessary because APPs experience delays in contract augmentations, lost payments through the mail, and other unavoidable events.

Executive Order EO-N-45-20. On April 4, 2020, the Governor signed Executive Order N-45-20, enacted in SB 820 (Budget and Fiscal Review Committee, Chapter 110, Statutes of 2020) which, among other things, authorized family child care providers to be reimbursed the amount on a childcare certificate, regardless of attendance.

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

According to the Senate Appropriations Committee:

- The CDE estimates ongoing General Fund costs of approximately $68 million to pay providers at maximum certified hours for children enrolled with variable schedules. No additional costs to the Department of Social Services are anticipated to reimburse providers for authorized hours of care, rather than actual hours of care, under the CalWORKs Stage One childcare program.

- Any costs from deleting the authorization for licensed child care providers to alter rates for subsidized children only once per year is unknown. The CDE indicates there is insufficient data on individual provider rates to determine a cost estimate, but notes an increase in a provider's rate will not exceed the reimbursement rate ceiling in existing law.

- The use of electronic signatures or increasing the reserve account maximum limits for APP contractors is not expected to result in additional General Fund costs.

SUPPORT: (Verified 8/26/21)

California Alternative Payment Program Association (source)
Bananas
California Association for the Education of Young Children
California Child Care Coordinators Association
California Child Care Resource and Referral Network
California Legislative Women's Caucus
Catalyst Community
Catalyst Family Inc.
Child Action, Inc.
Child Care Alliance of Los Angeles
Child Care Providers United

Child Care Resource Center
Child Development Associates
Child Development Resources of Ventura County, Inc.
Children Now
Children's Council San Francisco
Children's Home Society of California
Children's Resource & Referral of Santa Barbara County
Community Action Partnership of San Luis Obispo County, INC.
Community Child Care Council of Alameda County
Community Child Care Council of Sonoma County
Community Resources for Children
Connections for Children
Council for a Strong America
Crystal Stairs, Inc.
Del Norte Child Care Council
Early Care and Education Consortium
Early Care Educators of San Francisco
Family Child Care Association of San Francisco
Fight Crime: Invest in Kids
First 5 California
Good Samaritan Family Resource Center
Kai Ming Head Start
Low Income Investment Fund
Marin Child Care Council
Mexican American Opportunity Foundation
Mission: Readiness
National Women's Political Caucus of Sacramento
North Coast Opporunities
Northern Directors Group
Only Love Children's Center
Options for Learning
Parent Voices, San Francisco
ReadyNation
San Francisco Child Care Planning & Advisory Council
San Francisco Early Care & Education Advocacy Coalition
Santa Barbara County Office of Education
Sierra Nevada Children's Services
Siskiyou Child Care Council
Solano Family & Children's Services
Supportive Services, Inc.

True Sunshine Preschool Center
Valley Oak Children's Services, INC.
Women Democrats of Sacramento County
Wu Yee Children's Services
YMCA of San Diego County, Childcare Resource Service

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Lynn Lorber / ED. / (916) 651-4105
9/3/21 10:48:36

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

SENATE RULES COMMITTEE AB 887
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 887
Author: Levine (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 6/22/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Domestic violence: restraining orders

SOURCE: Author

DIGEST: This bill provides that domestic violence restraining order petitions may be submitted to courts electronically, as specified, provided that an appropriation is made for this purpose.

ANALYSIS:

Existing law:

1) Establishes the Domestic Violence Protection Act (DVPA) (Fam. Code § 6200 et seq.),[1] which sets forth procedural and substantive requirements for the issuance of a "protective order," whether issued ex parte, after notice and hearing, or in a judgment, that enjoins specified acts of abuse, excluding a person from a dwelling, or enjoining other specified behavior. (§§ 6218, 6300 et seq.)

2) Authorizes the issuance of a temporary restraining order (§ 240 et seq.), which generally requires notice to the respondent unless there is a showing that great

[1] All further statutory references are to the Family Code, unless otherwise specified.

or irreparable injury would result to the petitioner before the matter can be heard on notice (§ 241), but expressly authorizes ex parte restraining orders for several purposes under the DVPA (§ 6320 et seq.). Provides that a temporary restraining order generally lasts 21 days, although the court may grant continuances for a reasonable period. (§ 242, 245.) Generally requires that the respondent be personally served with a copy of the petition, the temporary restraining order, if any, and the notice of the hearing on the petition, at least five days before the hearing. (§ 243.)

3) Provides that an ex parte restraining order may be extended for up to five years (and subsequently renewed) following a hearing for which notice was provided to the respondent at least five days before the hearing. (§§ 6320.5, 6340, 6345, 6302.)

4) Provides that there is no filing fee for an application, a responsive pleading, or an order to show cause that seeks to obtain, modify, or enforce a protective order or other order authorized by the DVPA when the request for the other order is necessary to obtain or give effect to a protective order. (§ 6222.) Provides that there is no fee for a subpoena filed in connection with that application, responsive pleading, or order to show cause. (*Id.*)

5) Requires, in Emergency Rules of Court, that courts provide a means of filing ex parte requests for protective orders even during court shutdowns, whether by physical location, drop box, or electronic means; deems service on the respondent to be complete if the respondent appears at the hearing in which the court grants the restraining order. (Cal. Rules of Court, Emergency Rule 8 (April 6, 2020).)

6) Authorizes, in the Emergency Rules of Court: conducting proceedings remotely, including by video, audio, and telephonic means; the electronic and authentication of documentary evidence; e-filing and e-service; the use of remote interpreting; and the use of remote reporting and electronic recording to make the official record of an action or proceeding. (Cal. Rules of Court, Emergency Rule 3(a)(3) (April 6, 2020).)

This bill:

1) Provides that, subject to an appropriation:

   a) Petitions seeking domestic violence restraining orders and domestic violence temporary restraining orders may be submitted electronically in every trial court, consistent with timeframes under existing law.

b) Notice of the court date, copies of the request to mail on respondent, and the temporary restraining order, if any, must be remitted to the petitioner electronically.

c) Judicial Council must develop or amend rules and forms as necessary to implement these provisions.

d) There is no fee for any filings related to a petition submitted electronically.

2) Requires information about access to self-help services regarding domestic violence restraining orders shall be prominently visible on the superior court's internet website. Judicial Council must develop or amend rules as necessary to implement this requirement.

Background

Domestic violence restraining orders. The DVPA seeks to prevent acts of domestic violence, abuse, and sexual abuse, and to provide for a separation of persons involved in domestic violence for a period sufficient to enable them to seek a resolution. The DVPA's "protective purpose is broad both in its stated intent and its breadth of persons protected" (*Caldwell v. Coppola* (1990) 219 Cal.App.3d 859, 863) and courts are required to construe it broadly in order to accomplish the statute's purpose (*In re Marriage of Nadkarni* (2009) 173 Cal.App.4th 1483, 1498). The Act enables a party to seek a "protective order," also known as a restraining order, which may be issued to protect a petitioner who presents "reasonable proof of a past act or acts of abuse." (§ 6300; *see* § 6218.)

Victims of domestic violence who need immediate protection may seek a temporary restraining order, which may be decided ex parte (without notice to the respondent) and generally must be issued or denied the same court day the petition is filed. (*See* §§ 241, 6320 et seq.) Because the restrained party would not have had the opportunity to defend their interests, ex parte orders are short in duration. If a noticed hearing is not held within 21 days (or 25 if the court finds good cause), a temporary restraining order is no longer enforceable, unless a court grants a continuance. (§§ 242 & 245.) The respondent must be personally served with a copy of the petition, the temporary restraining order, if any, and the notice of the hearing on the petition, at least five days before the hearing. (§ 243.) After a duly noticed hearing, the court is authorized to extend the original temporary restraining order for up to five years, which may then be renewed. (§§ 6302, 6340, 6345.) Additionally, a protective order may be issued in a judgement entered in a proceeding for dissolution of marriage, nullity of marriage, legal separation of the parties, or in a parentage action. (§ 6360.)

Emergency rules of court. The COVID-19 pandemic, and the ensuing economic collapse, created the need for urgent court intervention, but court shutdowns and reduced court operations made court intervention more difficult. The Judicial Council recognized the critical nature of some family law orders by issuing emergency orders to protect family law litigants, mostly in the early days of the pandemic when many courts across the state shut down most of their operations.

One of the key family law emergency orders issued by the Judicial Council extends the time period for existing domestic violence and other protective orders; requires that courts provide a means of filing ex parte requests for protective orders even during court shutdowns, whether by physical location, drop box, or electronic means; and deems service on the respondent to be complete if the respondent appears at the hearing in which the court grants the restraining order.[2] These protective orders can include establishing a temporary custody and visitation order, or temporarily changing an existing custody and visitation order.[3] Thus, emergency domestic violence protective orders, including related child custody orders, have been available throughout the pandemic to protect families and children across the state.

Additionally, another emergency rule adopted by the Judicial Council authorized: courts to require that judicial proceedings and court operations be conducted remotely, including by video, audio, and telephonic means; the electronic and authentication of documentary evidence; e-filing and e-service; the use of remote interpreting; and the use of remote reporting and electronic recording to make the official record of an action or proceeding.[4] These rules have been implemented unevenly across the state and will sunset 90 days after the state of emergency is lifted.

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

According to the Senate Appropriations Committee, the Judicial Council reports one-time initial costs of $1.9 million for implementation costs to update or obtain new case management systems and vendor costs to implement electronic filing solutions and ongoing annual costs of $700,000 in staffing costs for implementation and ongoing support. (General Fund*)

*Trial Court Trust Fund

[2] Cal. Rules of Court, Emergency Rule 8 (April 6, 2020).
[3] *See* § 6323.
[4] Cal. Rules of Court, Emergency Rule 3(a)(3) (April 6, 2020).

SUPPORT: (Verified 8/27/21)

American Association of University Women California
Association of Certified Family Law Specialists
California Partnership to End Domestic Violence
California State Sheriffs' Association
Change for Justice
Los Angeles County Bar Association - Family Law Section
Love & Alvarez Psychology, Inc.
Plumas Rural Services
San Diego County District Attorney's Office

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: The author writes:

> County shelter-in-place orders due to the coronavirus have impacted all aspects of life, but have been particularly difficult for victims of domestic violence. For victims, the process to seek a temporary restraining order (TRO) or a domestic violence restraining order (DVRO) has been complicated by the closure of or limited access to the courts. Even during a pandemic, timely access to the courts is necessary to protect vulnerable individuals and prevent harm to victims of domestic violence.
>
> Currently, a victim's available options to file a request for a TRO or DVRO are at the discretion of each court. In-person filing during business hours is required, but access to alternative methods of filing are inconsistent at best and unavailable at worst. A requirement for all courts to provide online filing for TRO and DVRO filings during and after business hours can help bridge the equity gap through consistent access across the state and by increasing access for low-income victims that may not have availability to file during business hours. Without additional alternatives to file a TRO or a DVRO, victims of domestic violence will continue to be exposed to harm with limited opportunities to escape a dangerous cycle of violence.

Several supporters write:

> AB 887 would require court facilities that receive and process petitions for domestic violence restraining orders (DVROs) and temporary restraining orders (TROs) to allow for electronic submission of the petitions. Stay-at-home orders issued during the COVID-19 pandemic have led to an alarming spike in acts of

domestic violence. For months, victims have been locked in with abusers with little ability to seek out resources. The ability for a victim to receive relief from the courts in the form of a restraining order could mean the difference between life and death for them. As courts continue to operate on a limited basis for the foreseeable future, it is integral that the system is allowed to adapt to the rapidly changing needs of the public during this pandemic, and especially of those in harm's way.

We are cognizant of the pressures the state and the judicial branch are facing, but we simply cannot stop moving forward with creating additional safe alternatives for victims and survivors to seek safety and justice. AB 887 increases access to justice and will provide victims with an important option to ensure safe access and prevent future harm to these victims.

The California State Sheriffs' Association adds:

The COVID-19 pandemic created enormous challenges for California residents, and exposed numerous holes in local and state governmental processes, including access to justice. Currently, there are courts that only allow DVRO and TRO petitions to be submitted in person during normal court business hours. This can be especially problematic for victims of domestic violence, as their abusers may have enhanced knowledge of their victims' whereabouts or prevent them from leaving their homes.

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Josh Tosney / JUD. / (916) 651-4113
8/31/21 9:34:22

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

SENATE RULES COMMITTEE AB 888
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 888
Author: Levine (D), et al.
Amended: 8/26/21 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: 77-0, 6/1/21 - See last page for vote

SUBJECT: Mobile slaughter operations: livestock

SOURCE: Author

DIGEST: This bill provides an exemption from animal slaughter inspections for a mobile slaughter operator (MSO) who provides services to an owner of livestock, where the slaughter occurs on the premises of the person who raised the livestock.

ANALYSIS:

Existing law:

1) Establishes the California Meat and Poultry Supplemental Inspection Act, which allows the California Department of Food and Agriculture to adopt regulations pertaining to the standards and requirements relating to the inspection, sanitation, facilities, equipment, reinspection, preparation, processing, buying, selling, and transporting, among other acts, of a meat processing establishment. The act requires each person to be licensed before operating a meat processing establishment or a custom livestock slaughterhouse.

2) Provides exemptions to the act for the following:

a) Owners who slaughter, on their own premises, livestock of their own raising where the meat is not for sale, but used exclusively by the owners, members of the owner's household, the owner's employees, and nonpaying guests.

b) A MSO who provides services to an owner where the slaughter occurs on the owner's premises and the meat is thereafter transported for the owner to an establishment for further processing.

c) A MSO who provides services to an owner of cattle, if the slaughter occurs on the premises of a person who raised the cattle and who is not the owner of the cattle, subject to the following conditions:

   i) Before slaughter, the cattle are inspected pursuant to Section 21051.

   ii) After slaughter, the meat is transported for the owner to an establishment for further processing.

   iii) The meat is not for sale, but is used exclusively by the owner, members of the owner's household, the owner's employees, and nonpaying guests.

   iv) The person who raised the cattle shall maintain a record, for a period of one year, of the owner of the cattle and of the total number of cattle slaughtered. The records shall be made available, upon request, to a department inspector, investigator, or peace officer.

   v) If conducting multiple slaughter operations at a premises, a MSO shall maintain, for a period of one year, a record of the total number of cattle slaughtered and the premises where the slaughter occurred. The records shall be made available, upon request, to a department inspector, investigator, or peace officer.

   vi) The MSOs shall follow the guidelines published by the Association of Food and Drug Officials in the Guidelines for Exempt Slaughter and Processing Operations publication.

d) Persons solely engaged in cutting, wrapping, and otherwise processing farm or custom slaughter livestock or the processing and sale of fresh meats derived from the United States Department of Agriculture (USDA) inspected carcasses, except the curing, smoking, and preparing of cooked or smoked sausages or cooked pork products that are not exempted under subdivision (b) of Section 18814.

e) Livestock slaughter and meat and poultry processing inspected by USDA.

3) Specifies the exemption shall not apply to the slaughter of more than five head of cattle on a single premises in a calendar month.

This bill:

1) Defines "livestock" to mean any cattle, sheep, goat, and swine used for human food, for purposes of this bill.

2) Defines "producer" to mean the person who owned and was responsible for feeding and caring for the livestock before its sale and slaughter on the person's premises.

3) Provides exemptions from the California Meat and Poultry Supplemental Inspection Act for the following:

   a) Owners who slaughter, on their own premises, livestock of their own raising where the meat is not for sale, but used exclusively by the owners, members of the owner's household, the owner's employees, and nonpaying guests.

   b) A MSO who provides services to an owner where the slaughter occurs on the owner's premises and the meat is thereafter transported for the owner to an establishment for further processing.

   c) A MSO who provides services to an owner of livestock and slaughters multiple livestock from multiple owners, if the slaughter occurs on the premises of one of the owners of the livestock or on the premises of the producer, subject to the following conditions:

      i) Before the slaughter, if the livestock slaughtered are cattle, the cattle are inspected pursuant to Section 21051 of the Food and Agricultural Code.

      ii) After the slaughter, the meat is transported for the owner to an establishment for further processing.

      iii) The meat is not for sale, but is used exclusively by the owner, members of the owner's household, the owner's employees, and nonpaying guests.

      iv) The producer that has mobile slaughter operations conducted on their premises shall register with the department and maintain records pursuant to this bill.

v) The MSO shall be licensed as a custom livestock slaughter operation with the department pursuant to this bill.

vi) The MSO shall be licensed as a livestock meat inspector with the department pursuant to this bill and shall complete annual training as provided by the Meat, Poultry, and Egg Safety Branch of the department.

vii) The MSO is licensed with the department shall maintain records pursuant to this bill and the records shall be made available, upon request, to a department inspector, investigator, or peace officer.

viii) The premises of the mobile slaughter facility, where slaughter is conducted shall have an adequate sewer, facilities, and potable water.

4) Specifies the exemption shall apply to the slaughter of more than one head of livestock on a single premises in a calendar year.

5) Specifies the department shall establish a license fee and renewal fee for a custom livestock slaughter operation. The fees shall not exceed the reasonable regulatory costs of the department and in no event shall be more than $500.

6) Specifies the producer of the livestock who conducts multiple slaughter operations on their premise shall be registered with the department and pay a one-time registration fee, not to exceed $100.

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

According to the Senate Appropriations Committee, the California Department of Food and Agriculture (CDFA) would incur costs in the low-to-mid hundreds of thousands of dollars annually. (General Fund). This bill requires CDFA to establish a registration fee and a renewal fee to cover costs associated with oversight and inspection of MSOs, and would limit the fees to the department's reasonable regulatory costs.

SUPPORT: (Verified 8/27/21)

Apricot Lane Farms
Barinaga Ranch
Black Pig Meat Co.
California Certified Organic Farmers
California Farm Bureau Federation
California State Grange

Community Alliance with Family Farmers
Lost Coast Ranch
Marin Agricultural Land Trust
Natural Resources Defense Council
Paicines Ranch
Roots of Change
Spring Coyote Ranch

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: According to the author:

> In the wake of the COVID-19 pandemic, consumer preferences are shifting. Many consumers wishing to buy their food from producers in their own community, and from producers who are known to them. AB 888 seeks to provide greater flexibility for California's small-scale cattle, sheep, goat, and swine (livestock) producers who provide fresh, locally grown and raised meat animals to those Californians who prefer to buy directly from the farm or ranch where the animals were raised. On-farm harvest is the most cost-effective, environmentally sound, and humane way for this small segment of meat-animal sales to be carried out.
>
> COVID-19 has exposed systemic weaknesses in both California's and the nation's food supply chain, with few affordable options available to small-scale livestock producers. AB 888 would create a much-needed opportunity for small producers raising livestock by allowing arrangements for slaughtering livestock on the farm or ranch where they were raised; the same opportunity that was already granted to beef producers in 2019 with AB 2114. In doing so, it will expand food security and support ranching businesses that stimulate rural economies.
>
> AB 888 is not a vehicle for replacing any of California's brick-and-mortar slaughter operations. It provides a simple solution for those who wish to buy their meat animals from a known local producer, and have those animals harvested on the farm where they were raised.

ASSEMBLY FLOOR: 77-0, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau,

Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Kalra, Seyarto

Prepared by: Reichel Everhart / AGRI. /(916) 651-1508
8/31/21 9:34:23

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

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

THIRD READING

Bill No: AB 896
Author: Bennett (D), et al.
Amended: 8/31/21 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 7/8/21
AYES: Stern, Allen, Eggman, Hertzberg, Hueso, Laird, Limón
NO VOTE RECORDED: Jones, Grove

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 65-12, 6/1/21 - See last page for vote

SUBJECT: Oil and gas wells and facilities: liens: collections unit

SOURCE: Author

DIGEST: This bill requires establishment of a collections unit at the Geologic Energy Management Division in the Department of Conservation, among other things.

Senate Floor Amendments of 8/31/21 add chaptering out amendments and replace an obsolete reference.

ANALYSIS:

Existing law:

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

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. The supervisor shall coordinate with other state agencies and others to further the goals of the California Global Warming Solutions Act of 2006 and to help support the state's clean energy goals. (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) Classifies oil and gas wells based upon their use.

   a) An idle well is a well that is not in use, and has not been in use for at least 24 consecutive months, as specified. (PRC §3008)

   b) An idle well that has no operator or other responsible party to pay for its costs becomes an "idle-deserted" or "orphan" well, which is then the responsibility of the state to plug and abandon. (PRC §3251, §3206.3)

5) Requires the department or the supervisor to provide certain reports to the Legislature regarding idle and long-term idle wells. Starting July 1, 2019 and annually through July 1, 2026, the supervisor shall submit a comprehensive report to the Legislature on the status of idle and long-term idle wells for the preceding calendar year, as specified. (PRC §3206.3)

6) Holds the current operator, or the previous operator, as provided, of an orphan well that produced oil, gas, or other hydrocarbons or was used for injection, responsible for the proper plugging and abandonment of the well or the decommissioning of idle-deserted production facilities. (PRC §3237)

7) Authorizes the supervisor to order the plugging and abandonment, or decommissioning of a hazardous or idle-deserted well or facility, as specified. (PRC §3251, §3255)

8) Requires an operator to either file with the supervisor certain annual idle well fees per well that increase the longer the well has been idle, or file an idle well management plan with the supervisor that eliminates between 4% - 6% of the

long-term idle wells each year. Failure to pay idle well fees or file a plan is sufficient evidence for the well to be considered legally deserted. (PRC §3206)

9) Provides that if a person fails to pay any charge or penalty imposed under the state's law for oil and gas conservation when it is due and payable, that the amount unpaid, including penalties and interest and related costs, shall be a perfected and enforceable state tax lien, as provided. (PRC §3423)

This bill requires the establishment of a collections unit at the division, among other things. Specifically, this bill:

1) States legislative intent that the supervisor and division personnel take consistent and proactive steps to minimize any potential financial liability from an owner or operator deserting and oil or gas well or attendant facilities, as provided.

2) Authorizes, in the event an operator does not perform certain work ordered by the supervisor, the division to impose a lien against the real or personal property of an operator in an amount equal to an estimate of the cost of the work prior to the division causing the work to be performed, as provided.Following service of the division's accounting of the costs to the operator, the charges are delinquent if not paid within 30 days.

3) Requires the supervisor to establish a collections unit at the division on or before July 1, 2022 to identify persons responsible for charges imposed by the division, locating assets belonging to those personal and fully implementing all of the division's authorities to collect amounts owed to it, as specified.

4) Requires the division, to the extent feasible, to use existing resources and personnel in establishing the collections unit until January 1, 2027.

5) Modifies existing annual idle well legislative reporting requirements, starting July 1, 2023, to include a description of the collection unit's activities. These include cost recovery from operators or responsible parties for work ordered by the supervisor or undertaken by the division, and information related to the division's use of liens, as provided.

6) Requires the division to send a notice to each operator subject to a fee related to idle wells by April 1 of each year, as provided. The notice is required to provide certain information related to the fee amount, and correcting the fee amount, among other things.

7) Includes chaptering out amendments for SB 84 (Hurtado, 2021).

8) Makes additional technical, clarifying and conforming changes to statute.

Background

California is a major oil and gas producing state. According to the US Energy Information Administration, the state was 7th and 14th for oil and natural gas production, respectively, among the 50 states in 2020. Production of oil was about 135M barrels.

According to data obtained from the division's website, there are approximately 125,000 active and idle oil and gas wells in the state (2021 data) and related production facilities located in over 180 oil and gas fields. Of these wells, about 78,000 are active, and 47,500 are idle. (The division no longer separately identifies certain legacy wells as "buried" and those wells are now included as idle.)

Active wells are those currently in use that either produce or inject fluids related to hydrocarbon production. Wells are often expensive to drill and to seal ("plug and abandon"). Therefore, operators may prefer to keep wells idle – sometimes for extended periods of time. Idle wells are more likely to become orphan wells. Orphan wells are deserted wells that the state has to address because no responsible operator has been found to do so. Orphan wells are likely to not be maintained consistently, and emissions from wells that fail or are failing may be hazardous to the surrounding environment, and public health and safety.

At the division's request, the California Council on Science and Technology (CCST) investigated the status of the state's oil and gas wells in order to estimate the potential cost to the state should the wells become orphaned. The CCST report was released in January 2020. The CCST report's results indicated that there were about 5,540 wells that were either likely to be orphaned or at high risk of becoming orphaned soon. The potential liability to the state was estimated to be roughly $500 million net for these two categories alone. While there are indemnity bonds in place for many of these wells, the sum of the bond amounts is much less than the likely costs to plug and abandon the wells.

In March 2021, the division released the second annual idle well report for the 2019 calendar year. The number of long-term idle wells remained relatively stable from 2018 to 2019 (17,576 to 17,560) as existing idle wells aged into long-term idle status and 543 long-term idle wells were either returned to operation or plugged and abandoned. The total number of idle wells increased to 37,095 from 29,292, although the division states that part of that increase may be from the

transition to a new database that may have delayed production reporting by some operators. (Note that this is 2019 data, and may not be inconsistent with the 2021 data provided above.) During 2019 it appears that the division identified 25 wells as orphan. The division further identified 3,265 wells as potentially deserted due to failure to pay idle well fees by over 940 operators. In recent testimony before a legislative budget committee, the division stated that the number of potentially deserted wells has increased.

Comments

Emerging vs. longstanding problems. There are thousands of buried legacy wells included in the idle well totals. In general, the buried legacy wells have been a recognized problem for decades, and many, to the extent their locations are known, are below densely-built and populated areas in southern California. Similarly, many of the 900+ operators identified as being delinquent on idle well fees in the most recent idle well report may well have also been recognized as potentially at-risk operators for a long time. Even with additional personnel approved for its Enforcement unit, it remains unlikely that the division will be able to resolve the status of longstanding deserted wells and related equipment abandoned by probably long-defunct operators quickly. For example, less than 1% of the deserted wells were resolved over the course of 2019, and the division has estimated it takes 4 – 6 months to determine if there is a responsible party for a deserted well. The author's goals are to help the division seek payment or obtain cost recovery from emerging problems. The proposed collections unit may help to address emerging problems.

The supervisor's broad authority. It is worth noting that the supervisor has very broad existing authority to regulate the oil and gas industry, and has wide latitude to take action on priorities. This includes the organizational structure of the division beyond the establishment of the geographic districts.

Recent division lien information. The division provided preliminary data on liens issued from 2017 through at least part of 2020. 95 liens were imposed upon 11 operators. Of these, sixty liens were imposed against HVI Cat Canyon, Inc. – an operator now in bankruptcy, and the remaining 35 liens were imposed upon 10 operators. Six of the liens were released upon receiving payment from one operator. It is not known how many of the other operators are in bankruptcy, if any.

NOTE: Additional discussion of this bill can be found in the Senate Natural Resources and Water Committee's analysis.

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

According to the Senate Appropriations Committee:

- CalGEM estimates ongoing costs of up to $1.2 million in the first year and $1.1 million annually thereafter (Oil, Gas, and Geothermal Administrative Fund [OGGAF]) to establish an in-house collections unit. Costs could potentially be much lower, around $135,000 to $150,000 annually, if CalGEM utilized a commission-based model to assist with collections. However, most of the costs of this service would instead be supported by commissions on successful collections that the department would otherwise receive with an in-house collections unit. The overall fiscal impact –including costs and total revenue from collections – is likely to be similar for both options.

SUPPORT: (Verified 8/26/21)

350 Bay Area Action
350 Butte County
350 Conejo/San Fernando Valley
350 Humboldt
350 Riverside
350 Sacramento
350 Silicon Valley
350 South Bay Los Angeles
350 Southland Legislative Alliance
350 Ventura County Climate Hub
1000 Grandmothers for Future Generations
Audubon California
Ban SUP (Single Use Plastics)
California Alliance of Nurses for Healthy Environment
California Coastal Protection Network
California Interfaith Power & Light
California League of Conservation Voters
Clean Water Action
Climate First: Replacing Oil & Gas
Climate Health Now
Climate Reality Project California
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, Santa Barbara, California Chapter
Conejo Climate Coalition
County of Santa Barbara

Earthjustice
East Valley Indivisibles
Elders Climate Action, NorCal Chapter
Elders Climate Action, SoCal Chapter
Environment California
Environmental Defense Center
Environmental Working Group
Feminists in Action
Fossil Free California
Friends Committee on Legislation of California
Greenpeace USA
Indivisible Alta Pasadena
Indivisible California Green Team
Indivisible CA-33
Indivisible Media City Burbank
Indivisible Sonoma County
Indivisible South Bay LA
Indivisible Ventura
Natural Resources Defense Council
Normal Heights Indivisible
Physicians for Social Responsibility, San Francisco
Long Beach 350
Rooted in Resistance
San Diego 350
Sierra Club California
SoCal 350
South Coast Interfaith Council
Surfrider Foundation
The Climate Center
Ventura County Board of Supervisors

OPPOSITION: (Verified 8/26/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "Climate change is the most serious threat that we face and the window to act is closing. My district has suffered the impacts of climate change. My constituents, friends, and neighbors have had to flee from fires, and sea level rise is leading to the vanishing of my district's beautiful coastline. For decades, we have relied on fossil fuels that have increased emissions and been a primary driver of climate change. We must plan

for how we will transition away from natural gas and oil. That includes planning for the plugging and proper abandonment of wells."

"Ab 896 provides the state with an additional tool to minimize the number of orphan wells. There are over 29,000 idle wells in the state, and there will be serious consequences to communities if those wells are not responsibly managed, plugged, and abandoned. Rincon Island and Platform Holly, both of which were in my district, show the need to plan for decommissioning wells. The combined recovery bonds for both of these facilities totaled $32 million, less than one-third the cost to the state for plugging and decommissioning the wells at both facilities."

"A recent study by the non-partisan California Council on Science and Technology found that onshore wells pose a potential liability to the state of $500 million, before accounting for environmental or health damage. The financial and environmental responsibilities of remediating orphan wells should not fall on the very communities that are harmed."

ASSEMBLY FLOOR: 65-12, 6/1/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Mathis, Patterson, Smith, Voepel, Waldron
NO VOTE RECORDED: Flora, Kiley

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
9/1/21 16:20:30

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

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

THIRD READING

Bill No: AB 927
Author: Medina (D) and Choi (R), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 7/14/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

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: Public postsecondary education: community colleges: statewide baccalaureate degree program

SOURCE: Author

DIGEST: This bill removes the cap on the total number of baccalaureate degree programs allowed within the California Community College (CCC) system and eliminates the January 1, 2027 sunset date of the statewide baccalaureate degree pilot program, thereby permanently authorizing the offering of baccalaureate degree programs at CCCs.

ANALYSIS:

Existing law:

1) Differentiates the missions and functions of public and independent institutions of higher education. Under these provisions:

   a) The primary mission of the California State University (CSU) is required to offer undergraduate and graduate instruction through the master's degree. The CSU is authorized to establish two-year programs only when mutually agreed upon by the Trustees and the CCC Board of Governors. The CSU is

also authorized to jointly award the doctoral degree with the University of California (UC) and with one or more independent institutions of higher education.

b) The UC is authorized to provide undergraduate and graduate instruction and has exclusive jurisdiction in public higher education over graduate instruction in the professions of law, medicine, dentistry and veterinary medicine. The UC is also the primary state-supported academic agency for research.

c) The independent institutions of higher education are required to provide undergraduate and graduate instruction and research in accordance with their respective missions.

d) The mission and function of the CCC is the offering of academic and vocational instruction at the lower division level, and the CCC are authorized to grant the Associate in Arts and the Associate in Science degrees. The community colleges are also required to offer remedial instruction, English as a Second Language instruction, and adult noncredit instruction, and support services which help students succeed at the postsecondary level. (EC § 66010.4)

2) Authorizes the Board of Governors of the CCC, in consultation with the CSU and the UC, to establish baccalaureate degree pilot programs that do not duplicate a baccalaureate degree program offered by the CSU or UC, at up to 15 community college districts, with one baccalaureate degree program each, as specified, to be determined by the Chancellor of the CCC. Completion of an independent evaluation by the Legislative Analyst's Office (LAO) is also required, and existing law sunsets the program on July 1, 2026. (EC § 78040 et seq.)

This bill removes the cap on the total number of baccalaureate degree programs allowed within the CCC system and eliminates the sunset date on the statewide baccalaureate degree pilot program, thereby permanently authorizing the offering of baccalaureate degree programs at CCCs. Specifically, this bill:

1) Extends the operation of the statewide baccalaureate degree pilot program indefinitely, and authorizes previously-approved programs to continue operating.

2) Removes limitations allowing no more than 15 CCC programs to offer baccalaureate degrees and no more than one campus within the district to offer a baccalaureate degree program.

3) Establishes an application and review process conducted by the CCC Chancellor's office that allows for approval of a total of 30 CCC baccalaureate degree programs per year, as specified. This bill further requires the CCC Chancellor's Office take a minimum of 30 working days to validate the submitted information and assess the workforce value of the proposed baccalaureate degree program.

4) Requires that a CCC seeking approval to offer a baccalaureate degree program provide evidence of unmet workforce needs to the CCC Chancellor's Office, as specified.

5) Continues to prohibit a CCC from offering a baccalaureate degree program or program curricula already offered by the CSU or the UC.

6) Requires the CCC Chancellor's Office to consult with and seek feedback from the Chancellor of CSU, the President of the UC and the President of the Association of Independent California Colleges and Universities, on proposed baccalaureate degree programs and whether they are duplicative of existing baccalaureate programs offered at CSU or UC.

7) Establishes a process whereby the CSU and UC submit written objections with supporting evidence to the CCC Chancellor's Office, if the CSU or UC believe there to be program duplication.

8) Requires, upon receipt of written objections, the CCC Chancellor to convene the applicant and objector(s) to establish a written agreement before the program is approved.

9) Requires that a formal objection filed by the CSU or UC to address specified issues or order to facilitate the consultation process.

10) Requires a CCC to continue to offer an associate degree program in the same academic subject for which a baccalaureate degree program has been approved, unless the Chancellor has approved the elimination of the associate degree program, as specified.

11) Strikes obsolete provisions on statewide evaluations of the pilot program.

12) Makes other technical and conforming changes.

Comments

1) *Need for the bill.* According to the author, " The current baccalaureate degree statute is set to expire July 1, 2026 creating questions from students that are seeking to enter into the four-year programs as to whether or not the program will continue as they move through. Additionally, there is a need to expand the number of colleges that are authorized to offer baccalaureate degree programs and the number of these programs that colleges can offer.

   "The current 15 programs have been open for students for over five years now and have graduated and placed hundreds of students in high-paying, quality jobs. These programs have been additive to what California's four-year institutions offer, not duplicative. Under AB 927, this policy would continue, as language would specifically prohibit duplication with CSU and UC programs. Additionally, the consultation process would require linkages to the workforce and applicants to demonstrate a local workforce need prior to approval."

2) *Status of existing pilot.* SB 850 (Block, Chapter 747, Statutes of 2014) authorized the Board of Governors, in consultation with the CSU and the UC, to establish a baccalaureate degree pilot program. The pilot program allows up to 15 participating community college districts to offer one baccalaureate degree program each to meet local workforce needs as long as it does not duplicate a baccalaureate degree program already offered by the CSU or the UC. The Legislative Analyst's Office (LAO) conducted interim and final evaluations of the pilot program, which were due on July 1, 2018, and February 1, 2020, respectively. SB 850 provisions sunset July 1, 2026. According to the report, of the 15 colleges, 10 started offering classes for their baccalaureate degree pilot programs in fall 2016; the five remaining colleges began offering classes fall 2017. At its height, the overall participation level for 15 programs combined reached 699 students.

3) *Program evaluation by the LAO.* The LAO's final evaluation of the BA pilot program was released ahead of schedule in February 2020. SB 850 directed LAO to include in its report, among other things, an evaluation of completion rates, the impact of baccalaureate degree pilot program on underserved and underprepared students, information on job placement of graduates and recommendations on whether and how the statewide baccalaureate degree pilot program can or should be extended and expanded. Key findings of their final evaluation include: (a) CCC bachelor's degree programs are offered at relatively low costs to students with no general concern with academic quality

or rigor; (b) many programs show little evidence of addressing workforce needs and; (c) programs are relativity small with six averaging less than 15 students per cohort.

4) *LAO recommendations*. In addition to the findings listed above, the LAO provides several recommendations, including alternatives to authorizing CCC bachelor's degree programs and improvements if the Legislature were to make existing programs permanent or authorize new programs. In its recommendation for alternatives to a CCC bachelor's degree program, the LAO report notes that more effective options exist for the state to better address workforce needs and/or increase access to bachelor's degree programs. Rather than establish 120-unit programs that lead to bachelor's degree, the Legislature could encourage closer partnerships between industry and colleges or universities to provide shorter training programs that would provide students who have associate degrees with additional skills to be promoted into supervisory positions.

   Some CCCs have agreements with baccalaureate degree-granting institutions. Improving alignment between CCC and the universities, in particular CSU, could increase the number of CCC students who ultimately obtain a bachelor's degree and reduce the amount of time students take to obtain their degree. Existing partnership between CCC and CSU that allow associate degree students to concurrently obtain their bachelor's degrees could not only be more cost-effective, but also benefit more students (including place-bound students) across more occupational fields, thereby having more widespread impact.

   Other LAO recommendations of which are addressed in this bill include require justification of workforce needs prior to program approval, clarify CSU and UC's role in assessing programs and, improve application and approval process.

5) *Impact to CCCs core mission.* In 2013, prior to the passage of SB 850, the CCC Chancellor appointed a study group to review the various aspects of bachelor degrees at community colleges. The *Report from CCC Baccalaureate Degree Study Group,* acknowledges questions and reservations that community college bachelor's degrees represent a further erosion of the Master Plan for Higher Education, the potential for duplication of programs, and concerns that broadening the CCC mission would diminish attention to transfer, basic skills, and career technical education. The study group recommended that further work proceeds with ongoing dialog with CSU and UC, and that further study should consider the potential impact on the current mission of the CCC as well

as on existing programs at local campuses. This bill places an annual cap on the number of approved baccalaureate degree programs and limits the total number of baccalaureate degrees offered at a community college, at any time, so as *not* to exceed 25% of the total number of associate degrees offered at that college, including, associate degrees for transfer.

6) *Master Plan for Higher Education.* As outlined in the Master Plan for Higher Education and by state statute, the CCCs are designated to have an open admission policy and bear the most extensive responsibility for lower-division undergraduate instruction. Its three primary areas of mission include education leading to associates degrees and university transfer, career technical education, and basic skills. The primary mission of the CSU is undergraduate and graduate instruction through the master's degree. The UC was granted the sole authority to offer doctoral degrees.

   Notwithstanding the differentiation of the mission envisioned by the Master Plan and outlined in statute, the Legislature has authorized the CSU to go beyond its original mission to offer four professional doctoral degrees which include the Doctor of Audiology, Doctor of Education, Doctor of Physical Therapy and Doctor of Nursing. Each program was individually approved through legislation. Fees were capped at the rate charged at the UC, no additional funding was provided by the state, and these programs were to be implemented without diminishing or reducing enrollment in undergraduate programs. Additionally, the CSU programs offer applied doctorates and are not duplicative of degrees offered by UC. The authority granted to CSU are more limited than that proposed by this bill. However, this bill does have some control measures to avoid duplication with CSU and UC baccalaureate programs. This bill requires CCC Chancellor to consult with and seek feedback from CSU and UC. It further forces collaboration and agreement among the segments should CSU or UC object to a program that is duplicative.

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 ongoing General Fund costs of $258,000 to administer the expansion of the baccalaureate degree program.

- While participation in the program is voluntary for local community college districts, there could be additional, unknown costs to districts that opt to implement baccalaureate degree programs at their campuses. These costs

include the development of programs and applications for program approval. However, the start-up costs are likely to be absorbable while the ongoing costs of providing these programs would be offset by state apportionments and student fee revenues. At the state level, there could be an increase in Proposition 98 General Fund to provide apportionment funding to support students in baccalaureate degree programs, to the extent these students would not have otherwise enrolled at a community college.

SUPPORT: (Verified 8/26/21)

A. T. Still University/Santa Maria
Allan Hancock College
Antelope Valley Community College District
Bakersfield College
California Community Colleges Chancellor's Office
City College of San Francisco
Coast Community College District
Cupertino Chamber of Commerce
Cuyamaca College
Foothill College Dental Hygiene Program
Foothill-de Anza Community College District
GENup
Grossmont-Cuyamaca Community College District
Kern Community College District
Kern County Superintendent of Schools
Los Angeles Community College District
Mid-Peninsula Dental Society
Miracosta Community College District
Mt. San Jacinto Community College District
National Association of Social Workers, California Chapter
Palo Verde Community College District
Peralta Community College District
Power
Rancho Santiago CCD
Rio Hondo College
San Bernardino Community College District
San Diego Community College District
San Jose-Evergreen Community College District
Santa Monica Community College District
Santa Ynez Band of Chumash Indians
Shasta-Tehama-Trinity Joint Community College District

Silicon Valley Leadership Group
South Orange County Community College District
Yuba Community College District

OPPOSITION: (Verified 8/26/21)

Academic Senate of the California State University

ARGUMENTS IN SUPPORT: The San Diego Community College District in a joint letter with other districts writes, in part, "Currently over twenty states already offer bachelor's degrees at the community college level in select workforce fields to better accommodate labor needs. Access, affordability and high quality characterize these community college programs, and research shows that the state and local economies have benefited from this adjustment. The bill would further allow the state to advance the needs of the workforce by authorizing additional bachelor's programs. For many professions, the baccalaureate degree has become the standard for entry into the workforce. This measure would increase access to baccalaureate degree programs while also increasing the earning power of graduates."

ARGUMENTS IN OPPOSITION: The Academic Senate of the California State University writes, in part, "The experiment/pilot with the original 15 CC programs has not proven effective. It has resulted in several of the programs terminating, not a ringing endorsement for expanding the scope of offerings to 30 new BA degree programs per year. Moreover, the premise that occupation categories are pushing for BA degrees over certifications in those areas is simply not borne out by empirical evidence. The findings of the LAO report suggests, 'The Legislature should encourage the development of shorter training programs linked with industry needs.' Additionally, enrollment in our extended education auxiliary certifications programs, as well as emerging certifications programs develop by private companies in private sectors demonstrate that the demand for certification programs is significantly increasing, not transforming into Bachelor's degrees."

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: Olgalilia Ramirez / ED. / (916) 651-4105
8/31/21 9:34:25

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

SENATE RULES COMMITTEE AB 928
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 928
Author: Berman (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 7/14/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

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: Student Transfer Achievement Reform Act of 2021: Associate Degree for Transfer Intersegmental Implementation Committee

SOURCE: Author

DIGEST: This bill requires the California State University (CSU) and University of California (UC) to jointly establish a singular lower division general education (GE) pathway for transfer admission into both segments, and also requires California Community Colleges (CCC) to place students who declare a goal of transfer on an Associate Degree for Transfer (ADT) pathway for their intended major. Further, this bill also establishes the ADT intersegmental implementation committee to serve as the primary entity charged with oversight of the ADT.

ANALYSIS:

Existing law:

1) Requires the segments of higher education to develop an intersegmental common core curriculum in general education for the purpose of transfer. This common core curriculum is known as the Intersegmental General Education Transfer curriculum (IGETC). Any student who completes the IGETC course

pattern is deemed to have completed the lower division coursework required for transfer to the UC or the CSU (Education Code § 66720).

2) Requests UC to identify commonalities and differences in similar majors across all UC campuses and provide CCC students with the information in at least the top 20 majors (EC § 66721.7).

3) Requires the governing board of each public postsecondary education segment to be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function (EC § 66738).

4) Requires the Chancellor of CSU, in consultation with the Academic Senate of the CSU, to establish specified components necessary for a clear degree path for transfer students, including specification of a systemwide lower division transfer curriculum for each high-demand baccalaureate major (EC § 66739.5).

5) Establishes the Student Transfer Achievement Reform (STAR) Act, which, in part, requires, commencing with the fall term of the 2011-12 academic year, a student that receives an associate degree for transfer to be deemed eligible for transfer in to a CSU baccalaureate degree when the student meets specified requirements.(EC § 66745, et seq.).

This bill:

Intersegmental ADT Implementation Committee

1) Establishes, until July 1, 2025, the ADT Intersegmental Implementation Committee (committee) for the following purposes:

   a) To serve as the primary entity charged with the oversight of the ADT, as specified, for the sole purpose of strengthening the pathway for students and ensure it becomes the primary transfer pathway between CCCs and UC, CSU, and participating independent higher education institutions.

   b) To enhance coordination and communication between four-year postsecondary educational institutions and the CCCs, as specified.

   c) To provide the Legislature and the Governor with recommendations to support its stated purpose.

2) Makes committee meetings subject to the Bagley-Keene Open Meeting Act.

3) Requires that the committee be convened by a third-party planning facilitator who is appointed by the Office of Planning and Research, as specified, and is responsible for performing all of the following duties:

   a) Provide facilitation and staff support to the committee.

   b) Develop written reports of the committee's recommendations and progress.

   c) Facilitate advisory groups as needed.

4) Authorizes the third-party planning facilitator to engage with the expertise of faculty through existing intersegmental oversight bodies including but not limited to, the Intersegmental Committee of Academic Senates and others.

5) Provides that the committee's membership be reflective of its intersegmental function by including a cross-section of the stakeholders.

6) Requires that members of committee be appointed by March 1, 2022, and be composed of:

   a) Designated representatives from each of the following entities:

      i) The CCC Chancellor's Office.
      ii) The CSU Chancellor's Office.
      iii) The UC President's Office.
      iv) The Association of Independent California Colleges and Universities.
      v) The California Department of Education.
      vi) The Student Senate for the California Community Colleges.
      vii) The California State Student Association.
      viii) The University of California Student Association.
      ix) The Academic Senate for the California Community Colleges.
      x) The Academic Senate for the California State University.
      xi) The Academic Senate of the University of California.

   b) Five members appointed by the Senate Committee on Rules, The Speaker of the Assembly, Lieutenant Governor and the Governor within the specified sectors and expertise, including two from an educational equity organization and a community college student.

7) Requires designating entities described in a) above to fill their respective positions on the committee when vacant and the remaining members to serve at the pleasure of their respective appointing entities.

8) Deems the first chair of the committee be a representative from the CCC Chancellor's Office for a term of two years and thereafter the chair is to be elected from the committee's membership for a two-year term, as specified.

9) Requires the committee do all of the following:

   a) Use members designated by each Academic Senate as liaisons to their respective curriculum workgroups to ensure better coordination and alignment.

   b) By December 31, 2023, provide the Legislature with recommendations on all of the following issues impeding the scaling of the ADT and streamlining transfer across segments for students:

      i) Identifying annual goals for increasing transfer rates and closing racial equity gaps in transfer outcomes to be adopted by the state, as specified.
      ii) Proposing a new unit threshold for STEM degree pathways that meet the requirements for admission to the CSU and UC, as specified. This bill further prohibits the committee from making recommendation of more than six units.
      iii) Reengaging ADT earners who do not transfer or apply for transfer.

   c) By December 31, 2024, achieve all of the following:

      i) Establish timelines and reporting deadlines for the existing regular review of declaring or matching transfer model curricula similar to CSU majors for admissions purpose.
      ii) Develop a plan to establish reporting and accountability requirements to ensure that transfer model curricula are aligned with the ADT.
      iii) Develop a plan for the periodic analysis and creation of additional transfer model curricula to respond to evolving workforce demands, as specified.
      iv) Develop a comprehensive communications plan and guidance on student-centered outreach to inform students about the ADT pathway, as specified.
      v) Provide feedback for the ADT internet website maintained by the CCC.

Singular General Education (GE) Pathway

10) Requires, by May 31, 2023, the Intersegmental Committee of the Academic Senates of the UC, the CSU, and the CCCs establish a singular lower division general education pathway that meets the academic requirements necessary for transfer admission to the CSU and UC.

11) Requires the administrative bodies of the UC, CSU and CCC to establish a singular lower division general education pathway for transfer to CSU and the UC, by December 31, 2023, if the intersegmental committee is unable to come to agreement.

12) Requires, commencing with the fall term of the 2025-26 academic year, the singular pathway established pursuant to this bill, be the *only* lower division general education pathway used to determine academic eligibility and sufficient academic preparation for transfer admission to CSU and UC.

13) Prohibits the establishment of a pathway that lengthens time to degree and one that exceeds the number of units required under IGETC.

Automatic ADT placement

14) Requires, by August 1, 2024, where ADTs for major pathways exist, the CCCs to place students on the ADT pathway if students declare a goal of transfer on their mandatory education plans to maximize the probability that students will transfer into a four-year university and earn a degree in their chosen field of study in a timely manner, and to minimize the accrual of excess units.

15) Provides that a student may opt-out of the ADT pathway for a local associate degree or if the student plans to apply to transfer to a UC campus or an independent institution of higher education.

16) Requires that each community college use their existing processes for student education plans and enrollments to implement the opt-out feature where an ADT exists.

17) Specifies that nothing in this bill is to be construed as prohibiting a student from being on the ADT pathway and also applying to UC or an independent university.

18) States if an ADT pathway does not exist in the student's chosen major, then there is no ADT pathway on which to place the student.

19) Makes ADT placement provisions not applicable to students seeking to complete Baccalaureate degree program or a career technical education program that does not have an ADT pathway.

Miscellaneous

20) States various findings and declarations relative the need to further streamline and make the transfer process easier for students to navigate.

21) Authorizes community colleges to use funds appropriated in the Budget Act of 2021 or subsequent budget acts to support the continued implementation of the CCC Guided Pathways Grant Program to implement this bill.

22) Defines various terms for the purpose of this bill.

23) Makes other technical changes.

Comments

1) *Need for the bill*. According to the author, "The 1960 Master Plan for Higher Education promised an accessible, affordable, and high-quality higher education for all California students. The transfer pathway, from community college to four-year institution, is an integral component of the Master Plan's commitment to access and affordability. Too many community college students hoping to find an affordable and achievable pathway to a four-year university instead are confronted with a maze of pathways and requirements that create confusion, lead to unnecessary unit accumulation, and too often lead to students dropping out before earning a degree. As California begins to recover from the pandemic, now more than ever, it is critical to increase degree attainment, improve time to degree, and close racial equity gaps. AB 928, the Student Transfer Achievement Reform Act of 2021, would transform the transfer process through three significant student-centered provisions by reimagining transfer from the student perspective."

2) *Transfer education is a core mission of CCCs*. The provision of quality transfer education is a primary mission of the community colleges. As outlined in the Master Plan for Higher Education and by state statute, the CCCs are designated to have an open admission policy and bear the most extensive responsibility for lower-division undergraduate instruction. Its three primary areas of mission include education leading to associates degrees and university transfer, career technical education, and basic skills. Accordingly, students at CCC have many options, they can earn a traditional Associate of Arts (AA) degree at CCC, transfer to a four-year university or upskill for the workforce. Students

confront many choices with each variation of options. In 2010, the Legislature enacted a law requiring CCC to streamline transfer to CSU and AA degree completion by developing the ADT pathway. Other transfer pathways and terminal AA degrees continue to be offered.

3) *Benefits of an ADT.* In an effort to address standing issues and concerns about the need to ensure a clearer, transparent and more navigable transfer process between the CCC and the CSU, the Legislature and Governor enacted SB 1440 (Padilla, Chapter 428, Statutes of 2010), the Student Transfer Achievement Reform Act. Since its enactment, the ADT has made significant strides in streamlining the transfer process for students, and has become a successful pathway to earning a bachelor's degree. Specifically, the Act requires CCC districts to develop and grant a transfer associate degree that deems the student eligible for transfer into the CSU, when the student meets certain course requirements. Completion of an ADT guarantees a student: (a) admission with junior status to a CSU campus; (b) no additional lower-division CSU coursework; (c) no more than 60-semester units of upper-division CSU coursework to complete a bachelor's degree; and, (d) priority admission at CSU.

   Additionally, since developing the ADT, the CCC system has also entered into new transfer agreements with the UC and private nonprofit universities, some of which now also guarantee admission and junior standing to students with an ADT.

4) *Oversight committee.* This bill requires the establishment of a 16-member oversight committee to ensure ADT becomes the primary transfer pathway in California. It would be convened by a third-party facilitator chosen by the Governor's Office of Planning and Research and composed of representatives from California's higher education intuitions including faculty, student groups, as well as outside entities such as workforce partners and social justice organizations. A representative from the CCCs would chair the committee and upon completion of their two-year term, the committee members would elect a new chair.

5) *High-unit degrees*. Some CSU campuses require more than the standard 120 units for certain degree programs, such as in computer science and other STEM majors. Statute exempts high-unit programs from the 60-unit guarantee requirements for ADT. This bill requires the oversight committee to establish a new unit threshold for STEM degree pathways that is not to exceed a change of more than six units.

6) *Singular general education pathway*. Current law specifies that any student who completes the intersegmental common core curriculum in general education (IGETC) is deemed to have completed the lower division coursework required for transfer to the UC or the CSU. However, it is not the only way to fulfill lower-division general education requirements for UC or CSU. There are notable differences among those requirements. CSU articulates many more courses than UC. For example, CSU requires oral communication, ethnic studies, and lifelong learner courses while UC does not. In addition, depending on the major or field of interest, a student may need to fulfill the general education breadth of a specific CSU or UC campus. This is particularly true for students who intend to transfer into majors that require extensive lower-division preparation, such as engineering or the physical and natural sciences; students are encouraged to concentrate on completing the prerequisites for the major and may not be well-served by following IGETC. This bill requires faculty from UC, CSU and CCCs to establish again a singular lower division pathway for transfer but unlike existing law requires that it be the *only* pathway for transfer admission into UC and CSU.

7) *Automatic ADT placement*. This bill requires CCCs to place a student, who declares a goal of transfer, into an ADT pathway where one exists. Under certain circumstances, this bill allows a student to opt-out of the ADT placement. For example, if the student plans to transfer to UC. Automatic placement could provide a starting point for navigating degree attainment and transfer. Having a clear pathway is especially relevant at CCC, where many students are the first in their family to attend college and thus may have limited prior knowledge of college programs and resources.

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

According to the Senate Appropriations Committee, the provisions of this bill could potentially create a reimbursable state mandate, resulting in significant costs for the state and local community college districts. A precise estimate of these costs is difficult to determine and could vary significantly across the 115 community college campuses throughout the state based on a campus' current infrastructure. According to the Chancellor's Office, a shift to place more students on an ADT pathway would require additional resources for activities that include the upgrading or reprogramming of IT systems to accommodate the assumed increased in students placed on a default ADT and to allow opportunities for students to opt-out; increased counselor-student time; execution of a marketing campaign to inform students about ADT default placement and opt-out; and other

IT infrastructure changes to systems such as Degree Auditing, Ed. Planning, and Student Information System.

Based on information provided by a sample of community college campuses, the Chancellor's Office estimates one-time costs of approximately $1.16 million for each college to comply. However, staff notes that the utilization of existing processes for student education plans and enrollments could reduce these costs, and that existing funds in the 2021 Budget Act, including the $50 million Proposition 98 General Fund appropriation for the Guided Pathways Grant Program, could be deemed to be offsetting revenues should the bill's requirements be deemed to be reimbursable. In the long term, there will likely be unknown General Fund cost savings which would further reduce these costs to the extent that students transfer and complete their college degrees with fewer excess units as a result of this measure."

Other fiscal impacts of this bill include the following:

- The Chancellor's Office estimates General Fund costs of about $271,000 for 2.25 PYs to support and coordinate the efforts of the intersegmental committee.

- The CSU estimates one-time General Fund costs of $200,000 to consolidate general education requirements and execute implementation and additional one-time costs of $75,000 to $150,000 per campus to update degree audit systems, modify advising, and make necessary changes to the ASSIST system, which is an online system that allows students to see agreements between campuses for transfer and course articulation. The CSU also estimates a cost of $250,000 per year for a three-year period for the system wide office to coordinate campus updates and support CSU's share in the updating of ASSIST. Further, the CSU estimates $10,000 in ongoing costs for participation in the intersegmental committee and start-up costs of approximately $250,000 for marketing design and publications. Maintenance costs to keep materials current could be about $25,000 each year.

- The UC estimates ongoing General Fund costs of $150,000 for one staff to participate in the intersegmental committee. Additionally, UC anticipates additional, unknown costs for its nine campuses to update degree audit systems, make necessary changes to the ASSIST system, and increased costs for counseling services and articulation-related work.

SUPPORT: (Verified 8/26/21)

Office of Lieutenant Governor Eleni Kounalakis

A2MEND
African American Male Education Network & Development
Alliance College-Ready Public Schools Foundation
Alliance for a Better Community
BLU Educational Foundation
California Association of School Counselors
California State Student Association
Campaign for College Opportunity
CCCOLEGAS
Community Equity Collaborative
Compton College President, Keith Curry, Ed.D.
Congregations Organized for Prophetic Engagement
Council for a Strong America
Council of Mexican Federations
Cuesta College President, Jill Stearns, Ph.D.
Fresno Metro Black Chamber of Commerce
GENup
Growing Inland Achievement
Heart of Los Angeles
Hispanas Organized for Political Equality
Inland Empire Community Foundation
Inland Empire Concerned African American Churches
Inland Empire Economic Partnership
Inner City Struggle
InnerCity Struggle
John Burton Advocates for Youth
Kid City Hope Place
Long Beach Community College District Interim Superintendent-President, Mike Munoz, Ed.D.
Los Angeles County Business Federation
Los Angeles United Methodist Urban Foundation
MANA de San Diego
Mexican-American Legal Defense and Ed Fund
Moorpark College President, Julius Sokenu, Ed.D.
New Life Christian Church of Fontana
Partnership for Los Angeles Schools
Promesa Boyle Heights
Public Advocates INC.
Radio Bilingüe, INC.
ReadyNation

Regional Economic Association Leaders Coalition
Social Justice Learning Institute
Southern California College Access Network
Students Making a Change
The Children's Movement of Fresno
The Education Trust - West
uAspire
UNITE-LA, INC.
University of California Student Association
Western Association for College Admission Counseling
Young Invincibles
Youth Action Project
One individual

OPPOSITION: (Verified 8/25/21)

Faculty Association of California Community Colleges
Intersegmental Committee of Academic Senates
University of California

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: Olgalilia Ramirez / ED. / (916) 651-4105
8/31/21 9:34:26

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

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

THIRD READING

Bill No: AB 955
Author: Quirk (D)
Amended: 9/1/21 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 14-0, 6/24/21
AYES: Gonzalez, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, McGuire, Newman, Rubio, Skinner, Umberg, Wieckowski, Wilk
NO VOTE RECORDED: Bates, Melendez, Min

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: Highways: encroachment permits: broadband facilities

SOURCE: California Cable and Telecommunications Association

DIGEST: This bill establishes additional procedures for the Department of Transportation (Caltrans) in its review of an application for an encroachment permit for a broadband facility.

Senate Floor Amendments of 9/1/21 add intent language that the Legislature wishes to ensure a streamlined process for review of broadband permits on highways, delete the provision that prohibits Caltrans from imposing additional requirements on the applicant after the application is submitted, and delete the provision that Caltrans' failure to notify an applicant within 30 days that the permit is denied is deemed to constitute approval of the permit.

ANALYSIS:

Existing law:

1) Requires Caltrans to approve or deny an application for an encroachment permit within 60 days of receiving a completed application, as determined by the

department and establishes an appeals process for denied applications. (Streets & Highways Code § 671.5)

a) An application for encroachment permit is complete when all other statutory requirements, including the California Environmental Quality Act (CEQA), have been complied.

b) Caltrans' failure to notify the applicant within 60-days that the permit is deemed complete will constitute approval of the permit.

c) If Caltrans denies an application for an encroachment permit, at the time of denial it shall furnish the applicant with a detailed explanation of the reason for the denial.

d) Sets up an appeals process for denied applications.

2) Defines encroachment as any tower, pole, pole line, pipe, pipe line, fence, billboard, stand or building, or any structure, object of any kind or character not particularly mentioned in this section, or special event, which is in, under, or over any portion of the highway. (Streets & Highways Code § 660 (b))

3) Requires Caltrans, under certain conditions, to notify companies or organizations, as defined, of anticipated construction projects for the purpose of encouraging collaborative broadband installations and for those entities to collaborate for the installation of broadband conduit as part of a project. (Government Code § 14051)

4) Requires Caltrans, by January 1, 2018, to develop guidelines to facilitate the installation of broadband conduit on state highway rights of way. (Government Code § 14051)

This bill:

1) Requires Caltrans to provide public notice in writing of all utility encroachment permit criteria.

2) Requires Caltrans to notify the applicant within 30 days after application submission if the application is deemed complete. If Caltrans' fails to notify within 30 days the application shall be deemed complete.

3) Requires Caltrans, if it deems an application incomplete, to (a) provide a written notice to the applicant explaining why the application is incomplete and describing the information necessary to complete the application; (b) meet with

the applicant within 14 days to discuss any outstanding supplemental information necessary to complete the application, if such a meeting is requested by the applicant; (c) provide the applicant with at least 30 days to resubmit its application with the supplemental information that Caltrans identified in the notice; and (d) approve or deny the permit application within 30 days of receiving supplemental information.

Comments

1) *Author's Statement*. There has never been more pressure to address the Digital Divide than during the COVID-19 pandemic. As part of a comprehensive broadband solution to get more Californians internet access, AB 955 makes significant but reasonable improvements to the current Caltrans 60-day encroachment permit process that help expedite broadband deployment. This bill simply requires Caltrans to notify encroachment permit applicants of all application requirements, sets a 30-day milestone for Caltrans to verify whether that application is complete, and clarifies that Caltrans will act as the lead agency for the CEQA process in the event that no other local agency takes that role.

2) *Divided Digitally.* The lack of access to high speed digital telecommunications services by some individuals and geographic areas is known as the "digital divide". California has been trying to bridge this digital divide since the 1990s. One of the many unfortunate byproducts of the COVID epidemic is that it exposed how widespread the digital divide remains and how much of a disadvantage it creates for those without good digital access.

   Freeways and highways physically connect our cities and towns, making them potentially convenient avenues for placing digital infrastructure such as fiber optic cable and cell towers. Over the years, there have been several efforts to make Caltrans an enthusiastic partner in this endeavor. The lack of success of some of those efforts are behind this bill.

3) *Micromanaging?* Placing any structure or performing any construction within the highway right of way is obviously fraught with safety and operational considerations. Closing off a part of a freeway for construction is both hazardous and inconvenient for drivers. Under current law, Caltrans is already required to respond to a request to place equipment in its right of way within 60 days. However, according to the author, there are loopholes in the law, which in effect allow Caltrans to take much longer. In an effort to get Caltrans to make decisions more quickly and thereby speed construction of the

telecommunications network, this bill provides specific timeframes and specific actions that Caltrans must take.

Some may contend that such specific directives amount to micromanaging Caltrans' process. Nevertheless, the author believes such specificity is warranted based on specific instances of Caltrans inaction. The Senate Transportation Committee reached out to Caltrans and understands that they have recently worked with the author and are comfortable with the bill. Note that there is precedent for this level of Legislative involvement. In the 1990's frustration with the slow and inconsistent processes of the California Public Utilities Commission caused legislators to revamp that process and impose strict timeframes.

4) *Not Bad.* Caltrans has established a goal of approving or denying encroachment permits within 30 days 95% of the time. In the first half of 2020 they reached 89%.

5) *Opposition*. Opponents are concerned that this bill will facilitate the deployment of wireless communications services, which they view as dangerous.

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

According to the Senate Appropriations Committee, Caltrans indicates any costs would be minor and absorbable. (State Highway Account)

SUPPORT: (Verified 8/27/21)

California Cable and Telecommunications Association (source)
CalCom

OPPOSITION: (Verified 8/27/21)

Physicians for Safe Technology
Santa Barbara Green Sisters
Towards an Internet of Living Beings

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: Randy Chinn / TRANS. / (916) 651-4121
9/2/21 16:30:31

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

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

THIRD READING

Bill No: AB 965
Author: Levine (D)
Amended: 6/29/21 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 8-0, 7/8/21
AYES: Cortese, Caballero, Eggman, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski
NO VOTE RECORDED: Bates

SENATE APPROPRIATIONS COMMITTEE: 6-1, 8/26/21
AYES: Portantino, Bradford, Jones, Kamlager, Laird, McGuire
NOES: Bates

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Building standards: electric vehicle charging infrastructure

SOURCE: Author

DIGEST: This bill requires the state Department of Housing and Community Development (HCD) and the California Building Standards Commission (CBSC) to propose for adoption, building standards for electric vehicle (EV) charging infrastructure for parking spaces in existing non-residential development, as specified. This bill also requires HCD to contemplate specified factors when considering proposed building standards for future EV charging infrastructure in existing multifamily dwellings.

ANALYSIS:

Existing law:

1) Establishes the CBSC within the Department of General Services and requires any building standards adopted or proposed by state agencies to be submitted

to, and approved by, the CBSC prior to codification into the California Building Standards Code.

2) Requires HCD to propose the adoption, amendment, or repeal of building standards to the CBSC for residential buildings including hotels, motels, lodging houses, apartment houses, dwellings, buildings, and structures.

3) Requires the CBSC to publish the California Green Building Standards Code (CALGreen) in its entirety once every three years, as part of the California Building Standards Code.

4) Establishes building standards for EV charging infrastructure in new residential development and new non-residential development.

5) Requires HCD 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, in developing proposed standards for EV charging infrastructure.

This bill:

1) Requires HCD, when considering proposed building standards for future EV charging infrastructure in existing multifamily dwellings, to consider both of the following:

   a) Whether the standards shall apply only to multifamily dwellings or only to an addition, alteration, demolition, repair, or other construction activity requiring a building or electrical permit, in order to minimize costs.

   b) Whether to require up to 20% of parking spaces in existing multifamily dwellings to support future installation of EV charging infrastructure.

2) Requires HCD and the CBSC to research, develop, and propose for adoption, on or before July 1, 2024, or in the next interim code cycle, whichever is sooner, building standards, including thresholds below which the standards would not apply, for the installation of future EV charging infrastructure for parking spaces in existing non-residential development.

3) Includes community choice aggregators, EV manufacturers, EV supply equipment manufacturers, and labor unions in the list of interested parties that HCD and the CBSC must consult in developing EV charging infrastructure standards.

4) Requires HCD and the CBSC to review the standards for multifamily dwellings and non-residential development every 18 months and update the standards as needed.

Background

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.

Comments

1) *CALGreen*. Since 2008, the CBSC has maintained a separate chapter of the California Building Standards Code known as CalGreen. CALGreen includes the first mandatory green building standards code in the country and is intended to help meet the state's greenhouse gas (GHG) reduction goals. In addition to the mandatory standards, CALGreen provides "tiers" of voluntary green building standards as a model for cities and counties. The CBSC is authorized to propose CALGreen standards for non-residential structures that include, but are not limited to, new buildings or portions of new buildings, additions and alterations, and all occupancies where no other state agency has the authority to adopt green building standards applicable to those occupancies.

   CALGreen requires new multifamily buildings with 17 or more units to install EV charging infrastructure in at least 3% of parking spaces. CALGreen also requires at least 10% of total parking spaces in a new non-residential development to be designated for low-emitting, fuel-efficient, and carpool/vanpool vehicles, including EVs. Incorporating charging facilities into plans for new construction can help reduce the costs of such infrastructure. However, since only new developments fall under this requirement, it has limited impact. Retrofitting existing developments for EV charging infrastructure poses significantly higher costs than incorporating this infrastructure into the design of new developments.

2) *GHG goals*. AB 32 (Nunez and Pavley, Chapter 488, Statutes of 2006) required the Air Resources Board (ARB) to determine the 1990 statewide GHG

emissions level and approve a statewide GHG emissions limit that is equivalent to that level, to be achieved by 2020, and to adopt GHG emission reduction measures by regulation. In 2015, Governor Brown issued an executive order setting a statewide GHG emission reduction target of 80% below 1990 levels by 2050 and an interim target of 40% below 1990 levels by 2030. SB 32 (Pavley, Chapter 249, Statutes of 2016) codified the 2030 target.

According to ARB, the transportation sector is responsible for roughly 40% of GHG emissions in California. Accordingly, a number of measures have in recent years have aimed to increase use of EVs, including:

a) SB 1275 (De León, Chapter 530, Statutes of 2014) established the Charge Ahead California Initiative, which aims to place one million electric cars, trucks, and buses on California's roads by 2023.

b) The ZEV regulation, commonly known as the ZEV mandate, sets a goal for ZEVs and near-ZEVs to comprise 15% of new cars sold in California by 2025. If a manufacturer fails to meet its ZEV requirement, it is subject to financial penalties.

c) Executive Order N-79-20, signed by Governor Newsom in September 2020, aims to phase out the sale of new internal combustion engine vehicles by 2035. The California Energy Commission estimates that to accomplish this goal, the state will need 1.5 million EV chargers to support driver transition to EVs in the coming decade.

3) *Déjà vu.* This bill is substantially similar to two prior bills:

a) AB 1239 (Holden, 2018), which was vetoed. In his veto message, Governor Brown stated that AB 1092 (Levine, Chapter 410, Statutes of 2013) already required the CBSC to adopt mandatory standards for installation of EV charging stations in new multifamily dwellings and non-residential buildings; in addition, the California Public Utilities Commission (CPUC) was working on a comprehensive plan to determine where IOUs could install charging stations around the state. The message stated that the Governor was directing the Government Operations Agency to work with all key parties to identify barriers to construction of charging stations in existing buildings.

b) AB 684 (Levine, 2019), which was also vetoed. In his veto message, the Governor stated that the need to increase inclusive access to EV charging technology for Californians living in multifamily housing would be best

addressed administratively, in order to balance the state's charging infrastructure objectives with its efforts to expand affordable housing. The veto message directed HCD to develop and propose a building standard that would increase the availability of EV charging infrastructure and existing multifamily properties while limiting costs for affordable housing.

4) *Bottom line.* Supporters state that despite the AB 684 veto message directing HCD to develop EV charging infrastructure standards, HCD had not done so by early 2021, prompting the author to reintroduce the bill. In a letter to the author's office dated April 16, 2021, HCD reported that it is "developing measured steps to apply EV charging infrastructure requirements for existing residential buildings under specific circumstances." HCD's proposal for the CALGreen code would require EV infrastructure in 10% of areas that are altered when upgrades are made to existing parking facilities. If the CBSC approves the proposal, it will go into effect on January 1, 2023.

   Supporters state that while a 10% EV-readiness requirement is helpful, it is woefully inadequate for transitioning most existing multifamily developments towards an EV future; therefore, this bill is necessary to continue to push the envelope. To help address cost concerns about relating to construction and maintenance of affordable multifamily developments, this bill requires HCD to consider standards that apply only to multifamily developments, and to consider requiring – rather than simply requiring – that 20% of parking spaces in the development support future installation of EV charging infrastructure. This bill also requires HCD to consider standards that only apply when there is a major upgrade; these would presumably add on to existing standards that apply to existing buildings at the time of alteration, demolition, repair, or renovation.

Related/Prior Legislation

AB 684 (Levine, 2019) would have required HCD and the CBSC to propose building standards for the installation of EV charging infrastructure for parking spaces for existing multifamily and non-residential developments. The bill was vetoed.

AB 1239 (Holden, 2017) would have required HCD and the CBSC to research and propose for adoption mandatory building standards regarding the installation of EV-capable parking spaces in existing multifamily housing projects and non-residential buildings when those buildings are being reconstructed, as specified. The bill was vetoed.

AB 1092 (Levine, Chapter 410, Statutes of 2013) required the CBSC, as part of the next building code adoption cycle, to include mandatory building standards for the installation of electric vehicle charging infrastructure in multifamily dwellings and non-residential development.

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

According to the Senate Appropriations Committee:

- The CBSC estimates staff costs of $226,000 annually for three years (2022-23 through 2024-25, Associate Architect position) for workload to research, develop, and propose for adoption a mandatory building standard for EV charging infrastructure for parking spaces for existing nonresidential development. CBSC would incur additional minor and likely absorbable costs (approximately 0.25 PY of staff time) to review those standards every 18 months. CBSC also estimates one-time costs of approximately $50,000 in 2021-22 to reconfigure office space. (Building Standards Administration Revolving Fund)

- HCD would incur minor and absorbable costs to contemplate specified factors when considering standards for future EV charging infrastructure in existing multifamily dwellings, and to review standards for multifamily dwellings every 18 months, and update them as necessary. (General Fund)

SUPPORT: (Verified 8/26/21)

350 Humboldt: Grass Roots Climate Action
Alliance for Automotive Innovation
California Electric Transportation Coalition
Ceres
Chargepoint, INC
Clean Power Alliance
Elders Climate Action, NorCal and SoCal Chapters
Electric Auto Association
Electric Vehicle Charging Association
Enel North America
FLO
Greenlots
Local Government Commission
Natural Resources Defense Council
Project Green Home
Silicon Valley Leadership Group

South West Energy Efficiency Project
Tesla INC.
Vinfast

OPPOSITION: (Verified 8/26/21)

Department of Finance

ARGUMENTS IN SUPPORT: Supporters state that while the 10% EV-readiness requirement proposed by HCD is helpful, it is woefully inadequate for transitioning most existing multifamily developments towards an EV future; therefore, this bill is necessary to continue to push the envelope.

ARGUMENTS IN OPPOSITION: The Department of Finance states that this bill duplicates existing efforts and results in additional state costs not accounted for in this year's budget.

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Erin Riches / HOUSING / (916) 651-4124
8/28/21 11:19:18

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

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

THIRD READING

Bill No: AB 989
Author: Gabriel (D), et al.
Amended: 8/18/21 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 7/1/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE HOUSING COMMITTEE: 6-0, 7/8/21
AYES: Cortese, Caballero, Eggman, McGuire, Skinner, Wieckowski
NO VOTE RECORDED: Bates, Ochoa Bogh, Umberg

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 66-9, 6/1/21 - See last page for vote

SUBJECT: Housing Accountability Act: appeals: Office of Housing Appeals

SOURCE: California Apartment Association
California Housing Partnership

DIGEST: This bill establishes, until January 1, 2029, an Office of Housing Appeals (OHA) within the Department of Housing and Community Development (HCD).

ANALYSIS:

Existing law:

1) Establishes the Housing Accountability Act (HAA), which provides, among other requirements, that a local government shall not disapprove or impose conditions that render a project infeasible on a housing development project that sets aside at least 20 percent of unit for lower income households or 100

percent of units for moderate income households unless the local government makes specified written findings based upon a preponderance of the evidence.

2) Provides HCD authority to find a local government's housing element out of substantial compliance if HCD determines that the local government acts or fails to act in compliance with its housing element.

3) Requires HCD to notify the local government of a violation of law and gives HCD authority to refer a violation to the Office of the Attorney General (AG) if it finds that the city has violated the law by taking any action contrary to the housing element or an amendment to the element, or any action or failure to act pursuant to 1) or that any city or county has taken an action in violation of the following:

   a) The HAA;

   b) No-net-loss-in zoning density law limiting downzoning and density reductions;

   c) Density Bonus Law; and

   d) Prohibiting discrimination against affordable housing.

4) Establishes the Administrative Procedures Act (APA), which provides administrative standards for rulemaking procedures and for the conduct of informal and formal administrative hearings conducted by state agencies in California. The requirements set forth in the APA are generally applicable to all state agencies unless the agency or the action are statutorily exempt.

This bill:

1) Establishes, until January 1, 2029, within HCD an OHA to review affordable housing development projects that are alleged to have been denied or subjected to conditions in violation of the HAA, as follows:

   a) Establishes housing appeals panels within the office, each comprising three administrative law judges (ALJs) that are randomly assigned to an appeal hearing and possess specified qualifications.

2) Requires the HCD director to administer the operations of the office, as specified, including:

   a) Requires HCD to provide the office adequate space, staffing, and assistance.

b) Allows HCD to adopt regulations to implement the bill, as specified.

c) Prohibits the HCD director from directing, overseeing, supervising, or being otherwise involved in the decision making process of the housing appeals panels.

3) Allows an applicant who proposes an affordable housing development project to appeal to the office a local agency decision that the applicant believes violates the HAA, as follows:

a) Within 30 days after the date of a final decision by the local agency, an applicant that seeks to appeal a decision by a local agency to the office must file a written notice of intent with the local agency that the applicant intends to file an appeal, containing a description of the project and the specific decision the applicant intends to appeal, including the specific denial or list of conditions imposed in violation of the HAA.

b) If, within 30 days of receipt of the notice of intent, the local agency rescinds its action to deny or impose conditions identified in the notice of intent and takes action to approve the project or revise the conditions identified in the notice of intent, an applicant shall not file an appeal with the office regarding the denial or conditions identified in the notice of intent. If the local agency revises the imposed conditions or imposes any new conditions on the project, an applicant may allege that the revised or new conditions are in violation of the HAA in an appeal.

c) An applicant shall file an appeal to the office no sooner than 30 days, and no later than 60 days, following the delivery of a notice of intent. The applicant shall notify the local agency of the filing of the appeal on the same day that the appeal is filed with the office.

d) The local agency shall, within 10 days of the receipt of the notification of appeal, transmit a copy of its decision and its reasoning for that decision to the office, and notify the office if it will contest the appeal.

e) If the local agency transmits a copy of its decision and reasoning within 10 days, the office shall schedule an appeal hearing within 15 days. The hearing shall take place no sooner than 30 days, and no later than 45 days, after the local agency receives the initial notice required by this paragraph, unless all parties to the hearing agree to a later date.

f) Following the appeal hearing, the panel shall render a written decision within 14 days based upon a majority vote of the panel. If the panel finds

that the local agency disapproved an affordable housing development in violation of the HAA, or if the local agency does not respond to the notice of appeal, the office shall vacate the decision and shall direct the local agency to issue any necessary approval or permit for the development to the applicant within 30 days. If the panel finds that the local agency conditioned its approval in a manner that violates the HAA, the panel shall identify the conditions or requirements in its decision and shall order the local agency to modify or remove any such conditions or requirements within 30 days and to issue any necessary approval.

g) Written decisions shall be posted immediately on the office's internet website and be made available to the public.

h) If the applicant and the local agency reach a settlement on the issues contained in an appeal filed with the office before the panel renders a written decision, the applicant and local agency shall notify the office of the settlement and the office shall take no further action on the appeal.

4) Requires the local agency to carry out the order of the office within 30 days of a decision, unless judicial review is sought or if the applicant consents to a different action by the local agency.

5) Allows the applicant to enforce the office's decision in court and entitles the applicant to attorney's fees and costs if it prevails in an enforcement action.

6) Allows the court to impose fines on the local agency consistent with existing fines allowed under the HAA.

7) Requires the burdens of proof and standards of review for the appeals to be those established under the HAA.

8) Requires, generally, an applicant to appeal to the OHA before bringing an action in court to enforce the provisions of the HAA, except as follows:

a) An applicant may bring an action to enforce the HAA if the local agency and the applicant mutually agree that the office process is unlikely to facilitate a resolution; and

b) An applicant cannot use the office appeals process and must file an action in court to enforce the HAA if the local agency does not have an applicable council of governments, as specified, and meets any of the following conditions:

i) The local agency has failed to adopt a housing element that the HCD has determined to be in substantial compliance.

ii) The local agency has failed to submit an annual progress report to HCD in three or more of the preceding five years.

iii) The local agency has been found by a court to have violated state housing law within the preceding five years, including, but not limited to, specified housing laws.

9) Provides that the statute of limitations for applicants enjoined from bringing an action shall not begin until the date of the final decision of the office for either:

a) Any claim under the HAA; or

b) Any claim based on any other section of law relating to an action of the local agency on the housing project at issue.

10) Specifies that judicial review of the panel's decision must be de novo and allows a court, in addition to the courts discretion to stay a proceeding generally, to stay any court proceeding related to:

a) An appeal filed with the office;

b) A proceeding initiated by a different plaintiff alleging a violation of the HAA on the same project under review by the office;

c) Any other proceeding concerning a proposed housing project under review with the office.

11) Allows the department to charge a fee to the applicant for the reasonable cost to the office, and requires a local agency to reimburse the applicant for the fee if the applicant prevails.

12) Includes other technical provisions and findings and declarations to support its purposes.

Background

The California Constitution 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.

Local governments use their police power to enact zoning ordinances that establish the types of land uses that are allowed or authorized in an area. Zoning ordinances also contain provisions to physically shape development and impose other requirements, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks, and lot coverage ratios. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific considerations.

Denials or conditions under the HAA. The HAA limits the ability of local governments to deny or condition projects in a manner that renders them economically infeasible. Specifically, the HAA provides that when a proposed housing development complies with objective general plan and zoning standards, including design review standards, a local agency that intends to disapprove the project, or approve it on the condition that it be developed at a lower density, must make written findings based on a preponderance of the evidence that the project would have a specific, adverse impact on the public health or safety and that there are no feasible methods to mitigate or avoid those impacts other than disapproval or conditioning of the project. A project is deemed consistent, compliant, and in conformity with applicable standards if there is substantial evidence that would allow a reasonable person to conclude that the project is consistent, compliant, or in conformity. The HAA also generally puts the burden of proof on the local agency to demonstrate that its decisions meet the HAA's requirements.

Litigation is the current means by which a developer may compel compliance with the HAA. Some housing advocates want the Legislature to provide an alternative venue for resolving alleged violations of the HAA.

Comments

1) *Purpose of the bill.* According to the author, "Despite California's well-documented affordable housing crisis, some local government officials have defied state law and denied affordable housing projects even when they are fully compliant with all local zoning and regulatory requirements. These officials understand that in most cases affordable housing proponents will have no practical means to challenge the unlawful denial as the current remedy, litigation in Superior Court, is almost always prohibitively expensive, time-consuming, and otherwise impractical. AB 989 would address this problem by creating an alternate appeal panel with specialized expertise. Modeled off an approach that has been successfully implemented in states such as Illinois,

Massachusetts, Oregon, and Rhode Island. The panel would be able to resolve disputes around improper and unlawful denials of affordable housing in a more expedited, less expensive, less confrontational, and more consistent manner. To be clear, AB 989 simply provides a new procedural remedy to resolve disputes, it does not upzone, change any local zoning or land use policies, or otherwise change substantive state law around housing. Local jurisdictions that follow state law in good faith are highly unlikely to have any interaction with this new appeal panel, while those that have been actively and willfully violating the law will be encouraged to come into compliance."

2) *Better, faster, stronger?* Developers can currently ask a court to review local agency decisions that they feel violate the HAA, similar to the way other laws are enforced. AB 989 allows a state agency, rather than the judicial branch, to overturn local land use decisions on the premise that it will accelerate housing decisions and reduce the expense of litigation. However, just making a process administrative doesn't mean lawyers won't be involved: applicants and local governments will still need to spend significant time and resources to fight over appeals at the office. Additionally, litigation of the office's decisions could end up lengthening the development timeline for projects because applicants must use this process prior to going to court, and the court must review those claims de novo. Additionally, some housing advocates are concerned that AB 989 weakens the HAA because HAA claims might not be enforceable while the office is being staffed up and because delays while the office appeal process proceeds could hold up related housing claims.

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

According to the Senate Appropriations Committee:

- HCD estimates ongoing costs of approximately $3.7 million annually (General Fund) for 20.0 PY to establish and staff the new OHA, including 9 proposed ALJ positions for the housing appeals panels, and 2.0 PY of legal staff within the existing Legal Affairs Division. Actual costs would depend upon the number of appeals received by the OHA. Some costs would be partially offset by fees the OHA would charge for conducting hearings, but fee revenues are not likely to be sufficiently high to cover OHA costs.

- Unknown local costs for cities and counties to participate in OHA proceedings in defense of local decisions on housing development projects. Local costs are not state-reimbursable because local agencies have the authority to levy service charges, fees, or assessments sufficient to cover their costs.

- Unknown potential court cost savings, to the extent developers appeal local decisions to the OHA in lieu of filing a lawsuit to compel compliance with the HAA. Staff notes that any savings would be indirect since the courts are not funded on a workload basis.

SUPPORT: (Verified 8/27/21)

California Apartment Association (co-source)
California Housing Partnership (co-source)

OPPOSITION: (Verified 8/27/21)

Association of California Cities - Orange County
California Building Industry Association
California Cities for Local Control
California Rural Legal Assistance Foundation, INC.
California State Association of Counties
California YIMBY
Cities of Beverly Hills, Camarillo, Chino Hills, Downey, Fountain Valley, Hidden Hills, Lafayette, Laguna Niguel, Los Altos, Menifee, Moorpark, Newport Beach, Novato, Orinda, Pleasanton, Rancho Palos Verdes, Santa Clarita, Thousand Oaks, and Torrance
County of Humboldt
County of San Bernardino
Greenbelt Alliance
Habitat for Humanity California
Housing Action Coalition
League of California Cities
Livable California
Rural County Representatives of California
South Bay Cities Council of Governments
The Public Interest Law Project
Urban Counties of California
Ventura Council of Governments
Western Center on Law & Poverty, INC.
YIMBY Action
YIMBY Law

ASSEMBLY FLOOR: 66-9, 6/1/21
AYES: Aguiar-Curry, Arambula, Bennett, Berman, Bloom, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Cooper, Cunningham,

Daly, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, 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, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Boerner Horvath, Choi, Megan Dahle, Davies, Flora, Nguyen, Seyarto, Smith

NO VOTE RECORDED: Bauer-Kahan, Maienschein, Muratsuchi, Patterson

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
8/28/21 11:19:20

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

SENATE RULES COMMITTEE AB 1003
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1003
Author: Lorena Gonzalez (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/29/21
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 7/12/21
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Wage theft: grand theft

SOURCE: Author

DIGEST: This bill creates a new type of grand theft for the intentional theft of wages in an amount greater than $950 from any one employee, or $2,350 in the aggregate from two or more employees, by an employer in any consecutive 12-month period.

ANALYSIS:

Existing law:

1) Divides theft into two degrees: petty theft and grand theft. (Pen. Code, § 486.)

2) States that grand theft is committed when the money, labor, or real or personal property taken is of a value exceeding $950, except in specified cases of theft authorizing a lower threshold. (Pen. Code, § 487, subd. (a).)

3) States that any other case of theft is petty theft. (Pen. Code, § 488.)

4) States that petty theft is a misdemeanor punishable by a fine not exceeding $1000 or by imprisonment in the county jail not exceeding 6 months. (Pen. Code, § 490.)

5) States that grand theft is generally punishable as an alternate felony-misdemeanor. (Pen. Code, § 489, subd. (c).)

6) Makes it a crime to willfully divert money received for improvement construction from the payment of labors and materialmen on the project for a use other than that for which the money was received. The crime if punishable as an alternate felony-misdemeanor if the amount diverted is in excess of $2,350, and a misdemeanor if the amount diverted is less than $2,350. (Pen. Code, § 484b.)

7) Provides that every person who defrauds any other person of money, labor, or property, whether real or personal, or who fraudulently obtains the labor or service of another, is punishable in the same manner and extent as theft of the money or property so obtained. (Pen. Code, § 532, subd. (a).)

8) Makes it a misdemeanor offense to violate various sections of the labor code pertaining to employee compensation. (Lab. Code, § 215.)

9) States that any person, or an agent, manager, superintendent, or officer thereof is guilty of a misdemeanor who:

   a) Having the ability to pay, willfully refuses to pay wages due and payable after demand has been made; or,

   b) Falsely denies the amount or validity thereof, or that the same is due, with intent to secure for himself, his employer or other person, any discount upon such indebtedness, or with the intent to annoy, harass, oppress, hinder, delay or defraud, the person to whom such indebtedness is due. (Lab. Code, § 216.)

10) States that in addition to, and entirely independent and apart from any other penalty provided, every person who fails to pay the wages of each employee shall be subject to the following penalties which shall either be recovered by the employee as a statutory penalty or by the Labor Commissioner as a civil penalty:

   a) For each initial violation, $100 for each failure to pay each employee; and,

b) For each subsequent violation, or any willful or intentional violation, $200 for each failure to pay each employee, plus 25% of the amount willfully withheld. (Lab. Code, § 210.)

11) Defines "wages" to include all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation. (Lab. Code, § 200.)

12) Authorizes the Labor Commissioner to investigate employee complaints and provide for a hearing in any action to recover wages, penalties, and other demands for compensation, as provided. (Lab. Code, § 98, subd. (a).)

This bill:

1) States that notwithstanding sections of the Labor Code related to theft of failure to pay wages, the intentional theft of wages in an amount greater than $950 from any one employee, or $2,350 in the aggregate from two or more employees, by an employer in any consecutive 12-month period may be punished as grand theft.

2) Defines "theft of wages" as the intentional deprivation of wages, gratuities, benefits, or other compensation by unlawful means with the knowledge that the wages, gratuities, benefits, or other compensation is due to the employee under the law.

3) States that for purposes of this bill, "employee" includes an independent contractor and "employer" includes the hiring entity of an independent contractor.

4) Specifies that wages, gratuities, benefits, or other compensation that are subject of a prosecution under this section may be recovered as restitution in accordance with existing provisions of law.

5) States that this bill does not prohibit the employee or the Labor Commissioner from commencing a civil action to seek remedies provided for under the Labor code for acts prosecuted under this bill's provisions.

6) Clarifies that this bill does not constitute a change in, and does not expand or limit the scope of the conduct prohibited by the existing grand theft statute.

Comments

According to the author:

> Currently, workers can pursue wage claims through the Labor Commissioner's office to seek recovery of unpaid wages and other damages, file smaller wage claims in the Small Claims Court, or bring a lawsuit in state or federal court for themselves or as part of a class action. Each year, over 30,000 workers in California file claims of wage theft, though the share of workers owed unpaid wages is likely greater. These workers face processes for recovering their wages that are lengthy, burdensome, or often unsuccessful in changing employer behavior.
>
> Wage theft hurts California's economy, responsible businesses, and workers, particularly low wage workers who can least afford to lose earnings. The COVID-19 pandemic has only further exacerbated the financial desperation low wage workers are facing, making many workers more vulnerable to wage theft. In order to protect all workers, AB 1003 will make the make the intentional theft of wages, tips, or compensation by employers by fraudulent or other unlawful means punishable as grand theft. This would apply to theft over $950 for any one worker and aggregated over $2,350 for two or more workers, in any 12-month consecutive period, consistent with the current grand theft and larceny threshold.

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

According to the Senate Appropriations Committee:

1) Unknown, potential increase in state costs for new commitments to state prison that otherwise would not have resulted in criminal conduct absent this measure. The FY 2020-2021 per capita cost to detain a person in a state prison is $112,691 annually, with an annual marginal rate per person of over $13,000. The contract bed rate averages to about $35,000 annually. The actual costs would depend on how many defendants are sentenced to prison. (General Fund)

2) Unknown, potentially-significant workload cost pressures to the courts to process and decide charges of wage theft that would not have been filed or used as much court resources to adjudicate absent 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*)

*Trial Court Trust Fund

SUPPORT: (Verified 8/26/21)

California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California District Attorneys Association
California Federation of Teachers, AFL-CIO
California Labor Federation, AFL-CIO
California Nurses Association
California Statewide Law Enforcement Association
California Teamsters Public Affairs Council
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
Little Hoover Commission
Professional and Technical Engineers, IFPTE Local 21, AFL-CIO
San Diego County District Attorney's Office
Southwest Regional Council of Carpenters
Unite Here International Union, AFL-CIO
Utility Workers Union of America

OPPOSITION: (Verified 8/26/21)

Independent Physical Therapists of California
PGK Dance Project

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez,

Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Stella Choe / PUB. S. /
8/31/21 16:37:46

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

SENATE RULES COMMITTEE AB 1015
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1015
Author: Blanca Rubio (D), et al.
Amended: 9/1/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 7/14/21
AYES: Roth, Melendez, Archuleta, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Bates

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Board of Registered Nursing: workforce planning: nursing programs: clinical placements

SOURCE: Author

DIGEST: This bill requires the Board of Registered Nursing (BRN) to incorporate regional forecasts into its biennial analyses of the nursing workforce, develop a plan to address regional areas of shortage identified by its nursing workforce forecast, as specified, and annually collect, analyze, and report information related to the number of clinical placement slots that are available and the location of those clinical placement slots within the state.

Senate Floor Amendments of 9/1/21 add a co author and address a chaptering issue.

ANALYSIS:

Existing law:

1) Establishes the BRN to license and regulate the practice of nursing. (Business and Professions Code (BPC) §§ 2700 et seq.)

2) Requires the BRN to prepare and maintain a list of approved California-schools of nursing whose graduates, having met specified requirements, are eligible to apply for a license to practice nursing in California. (BPC § 2785)

3) Requires the BRN to collect and analyze workforce data from its licensees for future workforce planning, as specified, and requires the BRN to produce reports on the workforce data it collects, at a minimum on a biennial basis, as specified. (BPC § 2717(a))

4) Requires the BRN to prepare and maintain a list of approved schools of nursing in California whose graduates, if they have the other necessary qualifications are eligible to apply for a RN license. (BPC § 2785)

This bill:

1) Requires the BRN to incorporate regional forecasts into its biennial analyses of the nursing workforce.

2) Requires the BRN to develop a plan to address regional areas of shortage identified by its nursing workforce forecast, and identify additional facilities that could offer clinical placement spots.

3) Requires the BRN to annually collect, analyze, and report information related to the number of clinical placement slots that are available and the location of those clinical placement slots within the state including, but not limited to, information concerning the total number of placement slots a clinical facility can accommodate and how many slots the programs that use the facility will need and post this report on its internet website.

4) Makes other minor, technical changes.

Background

Board of Registered Nursing (BRN). The BRN regulates the practice of RNs in California. The BRN implements and enforces the Nursing Practice Act, the laws and regulations related to nursing education, licensure, practice, and discipline. In addition to licensing RNs, the BRN issues permits for pending licensees and certificates to the following advanced practice registered nurses (APRN): nurse practitioners (NPs), nurse anesthetists, nurse midwives (NMs), and clinical nurse specialists (CNSs). BRN also issues furnishing numbers to NPs and NMs with furnishing authority, maintains a list of psychiatric/mental health nurse specialists, issues certificates to public health nurses, and approves continuing education providers.

BRN is responsible for setting educational standards for RN, NP, and NM programs, approving such programs, approving continuing education providers, evaluating and licensing RN and APRN applicants, administering discipline, managing an intervention program for licensees with substance use disorders or mental illness, and providing stakeholder information and outreach.

Under current law, (BPC § 2717) the BRN is required to collect and analyze workforce data from licensees for future workforce planning and produce reports every two years. The data collected helps inform the BRN when contemplating school approvals and other education related issues. Stakeholders have questioned whether the BRN had been effectively and appropriately collecting data and using accurate data to inform its regulatory decision-making process.

Because of some of those ongoing conversations and concerns that BRN workforce assessment was not accurately reflecting the workforce needs in California, in 2019, the Joint Legislative Audit Committee authorized an audit of the BRN to assess its oversight of prelicensure nursing educational programs.

The request for an audit contained a number of factors to consider related to the BRN's oversight of prelicensure nursing programs. Those factors included determining whether nursing shortage predictions are accurate and fully capture the scope and breadth of current and future healthcare workforce needs, among others, when considering the approval or re-approval of a school, an expansion request, among other educational approval items.

The audit report was released in July of 2020, and noted that *the BRN has failed to use sufficient information when considering the number of students new and existing nursing programs propose to enroll*.

The audit report made several recommendations to address the deficiencies that it noted in the report. As a result, this bill incorporates three out of the four legislative recommendations because of those findings:

- Recommendation 10: Require BRN to incorporate regional forecasts into its biennial analyses of the nursing workforce.
- Recommendation 11: require BRN to develop a plan to address regional areas of shortage identified by its nursing workforce forecast. BRN's plan should include identifying additional facilities that might offer clinical placement slots.
- Recommendation 13: to ensure that BRN and stakeholders have an understanding of clinical placement capacity in California, the Legislature should amend state law to require BRN to annually collect, analyze, and report information related to the number of clinical placement slots that are available and the location of those clinical placement slots within the State.

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

SUPPORT: (Verified 9/1/21)

Association of California Healthcare Districts
California Health+ Advocates
Community Clinic Association of Los Angeles County

OPPOSITION: (Verified 9/1/21)

None received

ARGUMENTS IN SUPPORT: The Association of California Healthcare Districts writes in support and notes, "AB 1015 gathers important data needed to address regional shortages and make that data publicly available to be utilized to implement timely and necessary solutions. ACHD has historically supported various efforts to remedy workforce and access to care challenges faced by healthcare districts, and AB 1015 is one solution."

CaliforniaHealth + Advocates writes in support and notes, "As California grapples with the consequences of COVID-19, the Legislature must actively pursue

solutions to close the nursing shortage and meet the employment needs of future health care providers. AB 1015 bolsters California's nursing workforce, many of whom are trained and employed at CHCs.

The Community Clinic Association of Los Angeles writes in support and notes, "As the state faces a significant projected nursing shortage and regional shortage, which hinders the delivery of care and COVID-19 response, the process for prelicensure programs must be efficient. AB 1015 incorporates three out of four legislative recommendations from the State Auditor, and it would strengthen California's nursing workforce, many of whom are trained and employed at community health centers. The Legislature must pursue solutions to close the nursing shortage and meet the employment needs of future health care providers.

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
9/2/21 16:30:23

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

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

THIRD READING

Bill No: AB 1023
Author: Flora (R)
Amended: 8/26/21 (in Senate)
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 6/28/21
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Jones
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 78-0, 6/1/21 - See last page for vote

SUBJECT: Contractors and subcontractors: records: penalties

SOURCE: International Union of Operating Engineers, Cal-Nevada Conference

DIGEST: This bill allows the Labor Commissioner to impose a penalty on a contractor or subcontractor on a public works project if they fail to furnish payroll records to the Labor Commissioner as required by public works standards.

ANALYSIS:

Existing law:

1) Requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a "public works" project costing over $1,000 dollars and imposes misdemeanor penalties for violation of this requirement. (Labor Code §1771)

2) Defines "public work" to include, among other things, construction, alteration, demolition, installation or repair work done under contract and paid for in whole or in part out of public funds**.** (Labor Code §1720)

3) Requires every contractor and subcontractor to keep accurate payroll records showing basic information, work classification, time and overtime hours worked and the actual per diem wages paid to each worker employed in connection to a public works project. Each payroll record must contain a written declaration made under penalty of perjury stating both of the following:

   a) The information contained in the payroll record is true and correct.

   b) The employer has complied with all applicable requirements pertaining to prevailing, work hours and overtime compensation. (Labor Code §1776)

4) Requires a certified copy of payroll records be made available upon request to any of the following entities or individuals:

   a) An employee or authorized representative of an employee

   b) A representative of the body awarding the contract

   c) The Division of Labor Standards Enforcement (DLSE)

   d) The public, with a request through either the awarding body or the DLSE

5) Requires that a contractor or subcontractor who is otherwise subject to public works requirements must furnish payroll records pursuant to Labor Code §1776 directly to the Labor Commissioner. The contractor will furnish these records at least monthly or more if specified by contract and in a format prescribed by the Labor Commissioner.

6) Establishes the State Public Works Enforcement Fund as a special fund within the State Treasury. Money within this fund can only be used for the following purposes:

   a) The reasonable costs of administering the registration of contractors and subcontractors to perform public works.

   b) The costs and obligations associated with the administration and enforcement of public works standards by the Department of Industrial Relations.

   c) The monitoring and enforcement of any requirement of the labor code in connection with a public works project. (Labor Code §1771.3)

7) Limits the service time of a worker on a public works project to eight hours per day and 40 hours per week, unless a contract allows for the work and the

employee is compensated with at least 1.5 times the basic rate of pay. (Labor Code §§1811-1815)

This bill:

1) Requires the Labor Commissioner to impose a penalty of $100 per day (up to a max of $5000) on any contractor or subcontractor who fails to provide payroll records to the labor commissioner as required by public works standards. Penalties received will be deposited into the State Public Works Enforcement Fund.

2) Prohibits the Labor Commissioner from imposing the above penalty unless 14 days have passed since the date payroll records should have been furnished by the contractor or subcontractor.

3) Clarifies that penalties incurred under this bill will accrue only to actual contractor or subcontractor that failed to furnish the payment records.

Comments

Need for this bill? Existing law requires that contractors and subcontractors employed on public works furnish payroll records to the Labor Commissioner at least monthly. However, there is currently no repercussion for contractors who fail to turn in these records. Furthermore, the only mechanism to hold an employer accountable for a failure to furnish these records is to file a complaint and trigger a public works investigation, which costs time and labor enforcement resources. Assessing a penalty on employers who fail to meet these basic payroll requirements could incentivize more employers to provide their required records in a more timely manner.

Related/Prior Legislation

AB 1701 (Thurmond, Chapter 804, Statutes of 2017) held general contractors and subcontractors jointly liable for unpaid wages, including fringe benefits, and authorize civil actions to enforce the joint liability.

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

According to the Senate Appropriations Committee, "The Department of Industrial Relations (DIR) indicates that it would incur first-year costs of $5.4 million, and $5 million annually thereafter, to implement the provisions of the bill. Penalty revenue would potentially offset a portion of these costs."

SUPPORT: (Verified 8/25/21)

International Union of Operating Engineers, Cal-Nevada Conference (source)
California Labor Federation, AFL-CIO
California State Council of Laborers
California Teamsters Public Affairs Council
Union Roofing Contractors Association
North Valley Labor Federation

OPPOSITION: (Verified 8/25/21)

None received

ARGUMENTS IN SUPPORT: The California-Nevada Conference of Operating Engineers write in support:

"Law abiding contractors exert numerous resources, including financial resources, in order to comply with the States electronic Certified Payroll requirements. Allowing contractors to face no repercussions while violating state requirements puts the states responsible contractors at a disadvantage and discourages contractors from following the law. Additionally, allowing contractors to avoid the States Electronic Certified Payroll requirements wastes taxpayer dollars and enforcement money that could be directed towards more egregious public works violations, as DIR must open an investigation in an effort to receive the certified payroll, rather than simply penalizing the contractor for failure to follow the law.

AB 1023 (Flora) seeks to remedy this by authorizing the Labor Commissioner to issue a penalty of up to $100 per day against a contractor that fails to submit their legally required electronic Certified Payroll Records, with a cap on penalties at $5,000 per project. By ensuring the Labor Commissioner has the tools to enforce payroll law, we will be protecting workers, saving taxpayer dollars, and ensuring that non-compliant contractors are not getting an advantage over law-abiding contractors."

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, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty,

Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Kiley

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/31/21 9:37:31

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

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

THIRD READING

Bill No: AB 1035
Author: Salas (D), et al.
Amended: 9/1/21 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-0, 6/24/21
AYES: Gonzalez, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, McGuire, Min, Newman, Rubio, Skinner, Umberg, Wieckowski, Wilk
NO VOTE RECORDED: Bates, Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 73-0, 5/27/21 - See last page for vote

SUBJECT: Department of Transportation and local agencies: streets and highways: recycled materials

SOURCE: California Construction and Industrial Materials Association

DIGEST: This bill requires local governments to adopt specified Caltrans recycled material standards unless certain criteria are met.

Senate Floor Amendments of 9/1/21 delete the requirement that local governments update their recycled material standards every three years and remove the requirement that Caltrans consult with local governments when updating recycled material standards.

ANALYSIS:

Existing law:

1) Requires Caltrans to use recycled materials unless it determines that the use of these materials is not cost effective. Specifies that lifespan, durability, and maintenance cost are factors that shall be considered in determining cost-

effectiveness.

2) Requires, by January 1, 2017, local agencies to adopt Caltrans standards on the use of recycled materials or to discuss why the standards are not being adopted at a public hearing.

3) Requires, to the extent possible and cost effective, and where feasible, Caltrans and cities and counties receiving funds under the Road Maintenance and Repair Account to use advanced technologies and material recycling techniques that reduce the cost of maintaining and rehabilitating the streets and highways, and that exhibit reduced levels of greenhouse gas emissions through material choice and construction method. (Streets and Highways Code Section 2030(c))

This bill*:*

1) Requires local agencies to apply standard specifications, which allow the use of recycled materials in streets and highways to the extent feasible and cost effective, beginning January 1, 2023.

2) Requires the standard specifications to allow recycled materials at or above the level allowed by Caltrans as of October 2018 for recycled base and subbase materials, reclaimed asphalt, and specified reclaimed concrete components until January 1, 2026.

Comments

1) *Author's Statement*. Construction materials of aggregates, asphalt, and concrete are required to build and maintain roads. In turn, road repair and maintenance generates large quantities of aggregate, concrete, and asphalt rubble that can be recycled and re-used in road construction. While much progress has been made in recycling these materials, about a million tons are sent to landfills each year. The use of recycled construction materials helps conserve natural sources of aggregates, preserve embodied energy of manufactured concrete and asphalt, conserve oil resources, and reduce greenhouse gases from less transport and production of new materials. Caltrans has standards that allow for the use of recycled construction materials in road base, pavement, and minor concrete applications. Although there are cities and counties that match or exceed Caltrans standards, there are many that either do not allow the use of recycled construction materials or don't allow them to the extent allowed by Caltrans' standards. This important measure will require, to the extent feasible, that cities and counties allow at least the same percentage of recycled materials for

aggregate base, hot mix asphalt, minor concrete, reclaimed fly ash, and returned plastic concrete as Caltrans.

2) *Recycled and Reused*. California policy has long supported recycling and reuse of pavement as it reduces waste and is potentially more economic than using new material.[1] In 2012, AB 812 was passed encouraging Caltrans to use up to 40% of recycled asphalt. In 2014, legislation was passed requiring local governments to adopt Caltrans recycled material standards unless they publicly articulated why they could not. SB 1, the Road Repair and Accountability Act of 2017, required the use of material recycling where cost effective and feasible.

3) *Benefits, but with a Cost*. The use of recycled materials has resulted in significant benefits though at a cost. Take the use of crumb rubber, which is derived from old tires. State law requires crumb rubber be used in specified quantities for asphalt paving. Caltrans estimates that its crumb rubber usage in asphalt pavement diverted 5.5 million tires from landfills in 2018. However, the cost of using the crumb rubber was about 8% higher in most cases. In addition, the crucial unanswered question of the durability of the crumb rubber asphalt pavement will not be answered until later this year.

4) *Including Everyone.* The primary purpose of the bill is to require local governments to adopt Caltrans recycled material standards in the areas of asphalt pavement, the roadbed underneath the pavement, and concrete. While Caltrans has the resources to independently evaluate alternative materials and methods, most local governments do not, making them reliant on Caltrans or the contractors to help determine when new practices make sense. An issue for local governments is their large variation in size, geography, and local conditions. What might be suitable in metropolitan Los Angeles with year-round temperate weather and access to many contractors might be a bad fit for a smaller community with more extreme weather, different traffic conditions and fewer contractors with lesser capabilities. Hence, some flexibility for local governments is warranted and is provided for in the bill as the implementation of the recycled material requirement is dependent on feasibility and cost-effectiveness.

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

[1] Pavement recycling involves grinding down the top few inches of pavement, reheating the asphalt and adding an adhesive to hold it together, and laying it back on the road. This can be done with a single machine; the front of the machine rips up the old, damaged pavement and recycled pavement is laid down towards the back.

According to the Senate Appropriations Committee:

- Caltrans indicates that costs to consult with specified entities before updating its standard specifications for the use of recycled materials would be minor and absorbable. (State Highway Account)

- Unknown potentially reimbursable mandate costs for local agencies to apply standard specifications for the use of recycled materials that are at or above Caltrans standards, and to consider revising those standards every three years. To the extent a local agency successfully files a claim for reimbursement with the Commission on State Mandates (COSM), local costs to consider and adopt specifications would be reimbursable from the General Fund.

SUPPORT: (Verified 9/2/21)

California Construction and Industrial Materials Association (source)
A & A Ready Mixed Concrete, Inc.
Associated General Contractors
Bender Ready Mix Concrete, Inc.
Calportland Company
Cemex Inc.
Engineering & Utility Contractors Association Dba United Contractors
Golden State Natural Gas Systems
Granite Construction Company
Graniterock
Haulhub Technologies
Hi-Grade Materials
Holliday Rock Company Inc.
Master Builders Solutions
Master Builders Solutions - No. California
Outback Materials
P.W. Gillibrand Co. Inc.
Soiland Co., Inc.
Southern California Contractors Association
Superior Ready Mix
Sustainable Pavement Technologies
Syar Industries, Inc.
Teichert, Inc.
Zanker Recycling

OPPOSITION: (Verified 9/2/21)

American Society of Civil Engineers-Region 9

ASSEMBLY FLOOR: 73-0, 5/27/21
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, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Kiley, Maienschein, Mathis, Seyarto

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
9/2/21 16:30:32

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

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

THIRD READING

Bill No: AB 1036
Author: Eduardo Garcia (D) and Cervantes (D)
Amended: 8/26/21 in Senate
Vote: 27

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 7/14/21
AYES: Roth, Melendez, Archuleta, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Bates

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: California Manufacturing Emergency Preparedness Act of 2021

SOURCE: California Manufacturing and Technology Association

DIGEST: This bill establishes the California Manufacturing Disaster Loan and Competitive Loan Programs for the purpose of attracting, retaining, retooling, establishing, and expanding manufacturing and logistic capacity in the state. This bill also authorizes the Governor to activate one or more programs to provide loans to private business enterprises for the creation, maintenance, expansion, protection, or restoration of capacity or production of essential materials, as specified, as well as impose specified duties on the Office of Emergency Services, and makes technical and clarifying changes.

ANALYSIS:

Existing law

1) Establishes the California Infrastructure and Economic Development Bank (IBank) via the Bergeson-Peace Infrastructure and Economic Development Bank Act (the Act). (Gov. Code § 63000 et seq.)

2) Allows IBank to make loans, issue bonds, and provide financial assistance to economic development and public development facilities. (Gov. Code § 63050 et seq.)

3) Requires the Disaster Assistance Fund (the Fund) to be continuously appropriated, without regard to the fiscal year, for the California Disaster Assistance Act (the Assistance Act). When funds are available for purpose of the act, the Governor may allocate the funds, in connection with the relief provided, in affected areas during the period of federal disaster relief, to the Small Business Expansion Fund for use by IBank, to provide guarantees for low-interest interim loans to be made by lending institutions for the purpose of providing interim financing to enable small businesses that have suffered actual physical damage or significant economic losses, as a result of the disaster or state of emergency for which funding is made available. (Gov. Code §§ 8680-8692)

This bill establishes the California Manufacturing Disaster Loan and Competitive Loan Programs for the purpose of attracting, retaining, retooling, establishing, and expanding manufacturing and logistic capacity in the state. This bill also authorizes the Governor to activate one or more programs to provide loans to private business enterprises for the creation, maintenance, expansion, protection, or restoration of capacity or production of essential materials, as specified, as well as impose specified duties on the Office of Emergency Services, and makes technical and clarifying changes.

Background

The COVID-19 Pandemic and Its Economic Impact. Small businesses, particularly in the service sector have taken a massive hit due to public health orders and consumer spending patterns as a result of the COVID-19 pandemic. According to Opportunity Insights, a non-partisan, not-for-profit organization based at Harvard University and directed by economists Raj Chetty, John Friedman, and Nathaniel Hendren, as of July 26, 2020 overall spending in the state was down 13.6% as compared with January 2020. As of June 2020, the state had a 14.9% unemployment rate. As of June 2021, overall spending has increased 7.4% as compared with January 2020. As of June 2021, the state had around 68,000 unemployment claims.

State Actions Taken to Support Small Businesses During the COVID-19 Pandemic. In response to the COVID-19 pandemic, the state began taking action to support small businesses in several ways, including small business relief. The state has also taken the following actions related to small business grants and programs since the start of the COVID-19 pandemic. First, Governor Newsom provided $125 million in small business loans. The California Infrastructure Economic Development Bank (IBank) provided $100 million in loan guarantees for small businesses that may not be eligible for federal relief. Then, in November Governor Newsom announced the California Rebuilding Fund, a public-private partnership that drives capital from private, philanthropic and public sector resources – including a $25 million anchor commitment and $50 million guarantee allocation from the California Infrastructure and Economic Development Bank (IBank) – to Community Development Financial Institutions (CDFIs). Second, the Governor added $12.5 million to the Fund in late November so that it could be fully capitalized, saying this money will "help the 3rd party administrator of the fund raise $125 million to make more low-interest loans to small businesses with less access to loans from traditional banking institutions." Third, the state secured $30 Billion in Federal Small Business Relief. California secured an SBA disaster declaration early on March 17, 2020 to open up the Economic Injury Disaster Loans (EIDL) program for California small businesses and private non-profit organizations. Fourth, the state provided micro-grants to immigrant social entrepreneurs, allocating $10 million in the 2020-21 budget for Social Entrepreneurs for Economic Development (SEED) to provide micro-grants to immigrant social entrepreneurs. Fifth, the state provided $500 million via the OSBA in late November 2020 for small businesses impacted by the pandemic and the health and safety restrictions. Funds were awarded in early 2021 via Community Development Financial Institutions to distribute relief through grants of up to $25,000 to underserved micro and small businesses throughout the state. An additional almost $2.1 billion was added for small business grants of up to $25,000 with the passage of SB 87 (Caballero, Chapter 7, Statutes of 2021) in February 2021, with provisions that specified the recent OSBA grants would not be included in overall gross income tax calculations. The California 2021-2022 Budget Bill, AB 128 (Ting, Chapter 21, Statutes of 2021), includes $1.5 billion in grant funding to support small businesses, with up to $25,000 of grant money available per business.

Manufacturing Support in a Disaster. In response to the COVID-19 pandemic, state government agencies like GO-Biz, state trade associations like the California Manufacturing and Technology Association (CMTA), and state-and-federally-funded business assistance centers, including the California Manufacturing

Technology Corporation (CMTC) collectively and individually contacted California's dynamic manufacturers to ascertain how these businesses could contribute to the state's emergency response efforts. In particular, the CMTC worked one-on-one with small and medium-size manufacturers to shift their production to meet the state's top emergency supply needs. This work was made possible through repurposed funding from the GO-Biz Small Business Technical Assistance Expansion Program. Pivoting manufacturing required retooling of facilities, reworking of staffing, and establishing new supply sources. It ensured companies could contribute to the COVID-19 pandemic response and sustain a portion of their workforce.

The California Emergency Preparedness Act of 2021. Similar to the existing Fund, the California Emergency Preparedness Act of 2021 authorizes IBank to establish the California Manufacturing Disaster Loan and Competitive Loan Programs for the purpose of attracting, retaining, retooling, establishing, and expanding manufacturing, and logistics capacity in the state. It would also require IBank to establish guidelines for the implementation and oversight of the program. Finally, the bill would also prohibit IBank from starting the program until the IBank adopts a resolution finding that there is sufficient funding in various subaccounts to cover the costs of implementing the program and that the IBank has sufficient direction from the Director of the Office of Emergency Services, as provided.

This bill creates the Manufacturing Program Account within the California Infrastructure and Economic Development Bank Fund, a California Manufacturing Disaster Loan Program Subaccount (disaster subaccount), and a California Manufacturing Competitiveness Loan Program Subaccount (competitiveness subaccount) within that account for these purposes. These funding accounts are to be used by the IBank to cover the costs of administering the program and to provide assistance with respect to loans, made by lending institutions, for the purpose of providing financing to enable the manufacturing and logistics sectors to support the emergency needs of Californians. It also authorizes the Governor to activate one or more programs to provide loans to private business enterprises for the creation, maintenance, expansion, protection, or restoration of capacity or production of essential materials, as specified, as well as imposes specified duties on the Office of Emergency Services, and makes technical and clarifying changes.

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

According to the Senate Appropriations Committee, "The Governor's Office of Business and Economic Development (GO-Biz) indicates that this bill would result in annual costs of $2.1 million to administer the bill. Funding would be provided

from one or more of the following: disaster relief funds, the General Fund, special funds or participant fees. Initial funding to support the California Manufacturing Disaster Loan and Loan Guarantee Program would likely come from disaster relief funds because participant fees will not be collected until after the program is operational. Initial funding to support the California Manufacturing Competitiveness Loan Program would likely come from the General Fund because participant fees will not be collected until after that program is operational."

SUPPORT: (Verified 8/27/21)

California Manufacturers and Technology Association (source)
California Association for Micro Enterprise Opportunity
California Business Properties Association
California Business Roundtable
California Edge Coalition
California Life Sciences
California Manufacturing Technology Consulting
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Folsom Chamber of Commerce
Howmet Aerospace
Rancho Cordova Chamber of Commerce
Roseville Area Chamber of Commerce
Yuba Sutter Chamber of Commerce

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: The California Manufacturers and Technology Association (CMTA) along with other organizations writes in support and sponsorship: "AB 1036 will better position manufacturers to meet this challenge. Modeled after existing incentive frameworks, the California Manufacturing Emergency Preparedness Act of 2021 creates a mechanism whereby manufacturers can seek loan guarantees and other funding assistance to retool, repurpose, and expand production and product distribution to maintain a reliable supply of essential goods during a declared state of emergency. As a result, California-made products can remain available and accessible to our residents, and other, and aid in the successful response to such declared emergencies. The program will be available to manufacturers of all sizes and would only become operative upon an appropriation from the Governor."

The California Association for Micro Enterprise Opportunity (CAMEO) writes in support: "AB 1036 (Garcia) is critical to the small business community and is especially necessary now as small businesses struggle to meet the demands of COVID-19 while reopening its doors for business. For these reasons and more, CAMEO Strongly Supports AB 1036 (Garcia) and we look forward to working with you and your staff to ensure passage of the especially important legislation."

California Edge Coalition writes in support: "As California continues to lead the nation in the number of manufacturers, the sector still faces many challenges in maintaining global and domestic disaster preparedness, accessing a qualified workforce, and updating equipment and processes to meet domestic production needs during and following a declared state of emergency. As the COVID-19 pandemic spread, combined with wildfires in 2020, California relied heavily on global markets and often competed with other states – in addition to experiencing high levels of unemployment rates and disproportionately impacting workers of color. Although the vaccine promises an end to the pandemic, the State may face future public health emergencies. Therefore, having a robust manufacturing sector will offer many benefits to the State such as high-wage jobs, increasing international trade, and contribute to one of the highest multiplier effects on other industries and businesses."

California Life Sciences writes in support: "The coronavirus pandemic has emphasized the critical role the state's manufacturing industry plays in protecting the public health and safety of California residents. A reliance on an extended global supply chain has led to a shortage of basic necessities needed to support our health care system. During the pandemic, California's manufacturers stepped up to the plate and shifted their production to supply the state with essential emergency needs such as PPE, testing swabs and more. This pivot in manufacturing required strategic innovation in retooling of facilities, reworking of staffing and an establishment of new supply sources.

It is crucial that finance programs are developed in advance of disasters, so they can be activated once a state of emergency is declared. This will ensure that manufacturers have the resources and support they need to make these lifesaving adjustments."

California Manufacturing Technology Consulting writes in support: "Modeled after existing incentive frameworks, the California Manufacturing Emergency Preparedness Act of 2021 creates a mechanism whereby manufacturers can seek

loan guarantees and other funding assistance to retool, repurpose, and expand production and product distribution to maintain a reliable supply of essential goods during a declared state of emergency. As a result, California-made products can remain available and accessible to our residents, and others, and aid in the successful response to such declared emergencies. The program will be available to manufacturers of all sizes and would only become operative upon an appropriation from the Governor."

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, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Kiley

Prepared by: Dana Shaker / B., P. & E.D. /
8/31/21 9:37:33

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

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

THIRD READING

Bill No: AB 1057
Author: Petrie-Norris (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 7/13/21
AYES: Bradford, Ochoa Bogh, Durazo, Kamlager, Skinner

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 75-0, 5/13/21 (Consent) - See last page for vote

SUBJECT: Firearms

SOURCE: Brady United Against Gun Violence

DIGEST: This bill includes, starting July 1, 2022, within the definition of "firearm" a frame or receiver of the weapon or firearm precursor part for purposes a Gun Violence Restraining Order (GVRO) and a Domestic Violence Restraining Order (DVRO).

ANALYSIS:

Existing law:

1) Defines a "GVRO" as an order in writing, signed by the court, prohibiting and enjoining a named person from having in his or her custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition. (Pen. Code, § 18100.)

2) Requires a petition for a GVRO to describe the number, types, and locations of any firearms and ammunition presently believed by the petitioner to be possessed or controlled by the subject of the petition. (Pen. Code, § 18107.)

3) Prohibits a person that is subject to a GVRO from having in his or her custody any firearms or ammunition while the order is in effect. Specifies that this means the person cannot own, purchase, possess, or receive any firearms or ammunition. (Pen. Code, § 18120, subd. (a).)

4) Requires the court to order the restrained person to surrender all firearms and ammunition in his or her control, or which the person possesses or owns. (Pen. Code, § 18120, subd. (b)(1).)

5) Requires the law enforcement officer serving a GVRO to request that all firearms and ammunition be immediately surrendered. Requires, if the request is not made by a law enforcement officer, the surrender to occur within 24 hours of being served with the order, by surrendering all firearms and ammunition in a safe manner to the control of the local law enforcement agency, selling all firearms and ammunition to a licensed firearms dealer, or transferring all firearms and ammunition to a licensed firearms dealer. (Pen. Code, § 18120, subd. (b)(2) & (3).)

6) Requires the law enforcement officer or licensed firearms dealer taking possession of any firearms or ammunition to issue a receipt to the person surrendering the firearm, or firearms, or ammunition, or both, at the time of surrender and requires the restrained person to, within 48 hours of being served, do both of the following:

    a) File with the court that issued the GVRO the original receipt showing all firearms and ammunition have been surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer. Failure to timely file a receipt shall constitute a violation of the restraining order; and,
    b) File a copy of the receipt with the law enforcement agency, if any, that served the GVRO. Failure to timely file a copy of the receipt shall constitute a violation of the restraining order. (Pen. Code, § 18120, subd. (b)(4) & (5).)

7) Provides that there is no filing fee for an application, a responsive pleading, or an order to show cause that seeks to obtain, modify, or enforce a GVRO or other authorized order if the request for the other order is necessary to obtain or give effect to a GVRO or other authorized order. Provides that there is no fee for a subpoena filed in connection with that application, responsive pleading, or order to show cause. (Pen. Code, § 18121.)

8) Allows law enforcement to obtain a temporary GVRO if the officer asserts, and the court finds, that there is reasonable cause to believe the following:

a) The subject of the petition poses an immediate and present danger of causing injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition; and,
b) A temporary emergency GVRO is necessary to prevent personal injury to the subject of the order or another because less restrictive alternatives have been tried and been ineffective or have been determined to be inadequate or inappropriate under the circumstances. (Pen. Code, § 18125, subd. (a).)

9) Provides that a temporary GVRO expire 21 days from the date the order is issued. (Pen. Code, § 18125, subd. (b).)

10) Requires the court that issued the order or another court in the same jurisdiction, within 21 days after the date on the temporary GVRO order, to hold a hearing to determine if a GVRO should be issued after notice and hearing. (Pen. Code, § 18148.)

11) Allows the following individuals to file a petition requesting that the court issue a GVRO after notice and a hearing enjoining a person from having in his or her custody or control, owning, purchasing, or receiving a firearm or ammunition: an immediate family member of the subject of the petition; an employer of the subject of the petition; a coworker, if they have had substantial and regular interactions with the subject for at least one year and have obtained the approval of the employer; an employee or teacher of a school that the subject has attended in the past 6 months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisorial role; or a law enforcement officer. (Pen. Code, § 18170.)

12) States that at the hearing, the petitioner has the burden of proof, which is to establish by clear and convincing evidence that both of the following are true:

a) The person poses a significant danger of causing personal injury to themselves or another by having in the subject's custody or control, owning, purchasing, possessing, or receiving a firearm, and,
b) A GVRO is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition. (Pen. Code, § 18175, subd. (b).)

13) Provides that if a GVRO is issued, the order has a duration of one to five years, subject to termination by further order of the court at a hearing and renewal by further order of the court. (Pen. Code, § 18175, subd. (e).)

14) Provides that every person who owns or possesses a firearm or ammunition with knowledge that they are prohibited from doing so by a temporary emergency GVRO, ex parte GVRO or a GVRO issued after notice and a hearing, or by a valid order issued by an out-of-state jurisdiction that is similar or equivalent to a GVRO described under California law, is guilty of a misdemeanor and shall be prohibited from having under his or her custody and control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition for a five-year period, to commence upon the expiration of the existing GVRO. (Pen. Code, § 18205.)

15) Defines a "firearm" to mean a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion. (Pen. Code, § 16520, subd. (a).)

16) Defines a "firearm precursor part" to mean a component of a firearm that is necessary to build or assemble a firearm, and is either an unfinished receiver, as specified, or an unfinished handgun frame. (Pen. Code, § 16531, subd. (a).)

17) Establishes the Domestic Violence Protection Act (DVPA) which sets forth procedural and substantive requirements for the issuance of a protective order, whether issued ex parte, after notice and hearing, or in a judgment, that enjoins specified acts of abuse, excluding a person from a dwelling, or enjoining other specified behavior. (Fam. Code, §§ 6218, 6300 et seq.)

18) Prohibits a person subject to a protective order issued pursuant to the DVPA, shall not own, possess, purchase, or receive a firearm or ammunition while that protective order is in effect. A person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable as either a misdemeanor or state-prison felony. (Pen. Code, § 29825.)

This bill:

1) Defines "firearm" for purposes of a GVRO and for purposes of a DVRO issued pursuant to the DVPA to include a frame or receiver of the weapon or a firearm precursor part.

2) Delays implementation of this bill until July 1, 2022.

Comments

According to the author:

> Under existing law, ghost guns cannot be seized when a judge issues an emergency GVRO. Law enforcement officers or close family members can request a GVRO when an individual is deemed to be an extreme risk to themselves or others. Law enforcement is currently only able to seize traditional firearms. The definition does not cover precursor parts of a weapon that can be readily converted to the functional condition of a finished frame or receiver.
>
> The loophole in current California Code dangerously leaves out ghost guns and thereby, does not give courts the ability to seize weapons that may be of harm to the individual or others.

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

According to the Senate Appropriations Committee:

1) State Prison: Unknown, potential increase in state costs for new commitments to state prison for violations of DVROs resulting from the possession of firearm frames, receivers, or precursor parts. The FY 2020-2021 per capita cost to detain a person in a state prison is $112,691 annually, with an annual marginal rate per person of over $13,000. The contract bed rate averages to about $35,000 annually. The actual costs would depend on how many defendants are sentenced to prison. (General Fund)

2) Courts: Unknown, potentially-significant workload cost pressures to the courts to adjudicate contempt of court charges brought against defendants who are alleged to have violated DVROs and GVROs by possessing firearm frames, receivers, or precursor parts. 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*)

3) Department of Justice: Minor one-time costs to update the definition of firearm in the California Restraining and Protective Order System (commonly known as CARPOS).

*Trial Court Trust Fund

SUPPORT: (Verified 8/26/21)

Brady United Against Gun Violence (source)
Calegislation
Center for Public Interest Law
Children's Advocacy Institute
Everytown for Gun Safety Action Fund
Giffords
March for Our Lives San Diego
Moms Demand Action for Gun Sense in America
San Diegans for Gun Violence Prevention
San Diego City Attorney's Office
Students Demand Action for Gun Sense in America
Women Against Gun Violence
Women for American Values and Ethics Action Fund

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 75-0, 5/13/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes, Gallagher, Medina

Prepared by: Stella Choe / PUB. S. /
8/31/21 9:37:35

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

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

THIRD READING

Bill No: AB 1074
Author: Lorena Gonzalez (D) and Kalra (D), et al.
Amended: 7/12/21 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 7/5/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 49-20, 6/3/21 - See last page for vote

SUBJECT: Employment: displaced workers

SOURCE: UNITE HERE!

DIGEST: This bill renames the Displaced Janitor Opportunity Act the Displaced Janitor and Hotel Worker Opportunity Act and extends its worker retention requirements to contractors and subcontractors with employees who provide hotel services including guest services, as defined, food and beverage services, or cleaning services.

ANALYSIS:

Existing law:

1) Establishes the Displaced Janitor Opportunity Act requiring contractors and subcontractors, as defined, that are awarded contracts or subcontracts to provide *janitorial or building maintenance services* to retain employees who were employed by the previous contractor or subcontractor for a transition period. (Labor Code §1060-65)

2) Requires the following when a change in contract for janitorial or building maintenance services occurs:

a) An awarding authority must provide a terminated contractor with the contact information of the successor contractor and the terminated contractor must then provide (within three days) to the successor contractor the name, date of hire, and job classification of each employee employed at the site(s) covered by the terminated service contract.

b) A successor contractor or subcontractor must retain, for a 60-day transition employment period, specified employees of the terminated contractor or its subcontractors, unless there is reasonable and substantiated cause not to hire a particular employee based on performance or conduct.

c) The successor contractor or subcontractor must make a written offer of employment to each employee in the employee's primary language, as specified, and must give the employee up to 10 days to accept that offer. (Labor Code §1061)

3) Specifies that nothing requires the successor contractor or subcontractor to pay the same wages or offer the same benefits as provided by the prior contractor or subcontractor.

4) Specifies that if at any time the successor contractor or successor subcontractor determines that fewer employees are needed to perform services under the new contract, the successor contractor or successor subcontractor shall retain employees by seniority within the job classification.

5) Requires, during the 60-day transition employment period, the successor contractor or successor subcontractor to maintain a preferential hiring list of eligible covered employees not retained from which the successor contractor or successor subcontractor shall hire additional employees until such time as all of the terminated contractor's or terminated subcontractor's employees have been offered employment.

6) Requires, at the end of the 60-day transition employment period, a successor contractor or successor subcontractor to provide a written performance evaluation to each retained employee. If the employee's performance during that 60-day period is satisfactory, the successor contractor or successor subcontractor shall offer the employee continued at-will employment.

7) Defines, with regards to the Displaced Janitor Opportunity Act, the following:

a) "Awarding authority" mean any person that awards or otherwise enters into contracts for janitorial or building maintenance services performed within the State of California, including any subcontracts for these services.

b) "Contractor" means any person that employs 25 or more individuals and that enters into a service contract with the awarding authority.

c) "Employee" means any person employed as a service employee of a contractor or subcontractor who works at least 15 hours per week and whose primary place of employment is in the State of California under a contract to provide janitorial or building maintenance services. Employee does not include a person who is a managerial, supervisory, or confidential employee, as specified.

d) "Subcontractor" means any person who is not an employee who enters into a contract with a contractor to assist the contractor in performing a service contract.

e) "Successor service contract" mean a service contract for the performance of essentially the same services as were previously performed pursuant to a different service contract at the same facility that terminated within the previous 30 days. A service contract entered into more than 30 days after the termination of a predecessor service contract is considered a "successor service contract" if its execution was delayed for the purpose of avoiding application of these provisions.
(Labor Code §1060)

8) Authorizes an employee who was not offered employment or who was discharged in violation of the Act or their agent to bring an enforcement action against a successor contractor or subcontractor in a court of competent jurisdiction, as specified, and upon finding a violation, authorizes the court to award backpay, as specified. (Labor Code §1062)

9) States that nothing in the Act prohibits a local government agency from enacting ordinances relating to displaced janitors that impose greater standards than, or establish additional enforcement provisions to, those prescribed by the Act. (Labor Code §1064)

This bill:

1) Renames the act the Displaced Janitor and Hotel Worker Opportunity Act and extends its requirements to contractors and subcontractors with employees who provide hotel services including guest services, food and beverage services, or cleaning services.

2) Defines "guest service" to mean contracted work for which a majority of the employee work hours are executed on hotel premises, including front desk, bell,

in-house mail delivery, telephone operation, concierge, spa, valet, maintenance, landscaping, housekeeping, laundry, room services and other turndown services, or other substantially similar positions or services, provided by hotel service employees.

Background

Worker Retention Provisions in Existing Law:

The concept of requiring successor employers to retain terminated contractors workers is not a new concept. As noted above, not only is it an existing requirement for contracts for janitorial and building maintenance (enacted in 2001) but it also exists for grocery establishments (enacted in 2015), and in the context of bidding for state contracts, existing law gives a bidding preference for public transit service contractors and subcontractors and solid waste collection and transportation contractors and subcontractors who agree to retain employees. (NOTE: *Please see Senate Labor, Public Employment and Retirement Committee analysis for more background information.*)

In response to the COVID-19 pandemic and to address the impacts of the shutdown on employees, a bill was introduced in 2020 that would have established "recall and retention" rights for workers. AB 3216 (Kalra) would have provided recall and retention rights for workers who have been laid off due to a state of emergency and who work in a hotel, private club, event center, airport, or provide building services to office, retail or other commercial buildings. The bill was vetoed by Governor Newsom, however, in April of this year he signed SB 93 (Committee on Budget and Fiscal Review, Chapter 16, Statutes of 2021) which addressed the recall issue.

SB 93 required, until December 31, 2024, an employer to offer its laid-off employees information about job positions that become available for which the laid-off employees are qualified, and to offer positions to those laid-off employees based on a preference system, in accordance with specified timelines and procedures. SB 93 specified that a laid-off employee is qualified for a position if the employee held the same or similar position at the *enterprise* at the time of the employee's most recent layoff with the employer. "Enterprise" is defined as a *hotel*, private club, event center, airport hospitality operation, airport service provider, or the provision of building service to office, retail, or other commercial buildings. In essence, SB 93 captured the "recall" aspects of last year's attempt and this bill (AB 1074) now addresses the retention piece.

Comments

Need for this bill? According to the author, "Since the initial declaration of the state of emergency on March 4, 2020 due to the COVID-19 pandemic, countless hotels were forced to shut down or restrict their operations indefinitely. As a result, California's hospitality workforce has experienced unprecedented levels of unemployment, with over 700,000 jobs in the industry displaced. Nearly 40 percent of all California jobs lost during the pandemic have been in the hospitality industry. Many workers held these jobs for well over a decade, earning above minimum wage as a result, and relied on their jobs for critical employment benefits like health insurance. This workforce is made up predominantly of Latinas and immigrant workers who have already been disproportionately devastated by the pandemic.

"With the significant disruption COVID-19 has caused the hotel industry, workers need certainty going forward that their jobs won't be displaced each time a contract to provide the same services at a worksite is terminated and awarded to new contractor. Hotel services, including food and beverage, cleaning, and guest services, are commonly outsourced and performed by contracted or subcontracted employees. These workers generally report to work at the same worksite each day, wear the uniform of the hotel they are cleaning, and report to managers and supervisors onsite. A number of local jurisdictions across the state have already passed similar ordinances to ensure hospitality workers have the right to keep their jobs when a new business acquires a service contract, including Los Angeles, San Diego, Oakland, San Francisco, Santa Clara, Long Beach, and Pasadena. Establishing minimum statewide retention standards would provide job security to hundreds of thousands of hotel workers and boost economic recovery for an industry that has been among the most severely impacted by the pandemic."

Related/Prior Legislation

SB 93 (Committee on Budget and Fiscal Review, Chapter 16, Statutes of 2021) required, until December 31, 2024, specified employers to offer its laid-off employees job positions that become available, and to offer positions to those laid-off employees based on a preference system, in accordance with specified timelines and procedures.

AB 3216 (Kalra, 2020) would have provided recall and retention rights for workers who have been laid off due to a state of emergency and who work in a hotel, private club, event center, airport, or provide building services to office, retail or other commercial buildings. The bill was vetoed by Governor Newsom.

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

SUPPORT: (Verified 8/16/21)

UNITE HERE! (source)
American Association of University Women – California
American Federation of State, County and Municipal Employees, AFL-CIO
California Immigrant Policy Center
California Labor Federation, AFL-CIO
California Teamsters Public Affairs Council
Los Angeles County Federation of Labor, AFL-CIO
SEIU California
UNITE HERE Local 11

OPPOSITION: (Verified 8/16/21)

Beaumont Chamber of Commerce
Big Bear Chamber of Commerce
California Association of Boutique & Breakfast Inns
California Chamber of Commerce
California Hotel & Lodging Association
California Travel Association
Chino Valley Chamber of Commerce
Corona Chamber of Commerce
Fontana Chamber of Commerce
Fresno Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Ontario Business Council
Greater Riverside Chambers of Commerce
Hemet San Jacinto Chamber of Commerce
Highland Chamber of Commmerce
Hollywood Chamber of Commerce
Hotel Association of Los Angeles
Inland Empire Economic Partnership
Long Beach Area Chamber of Commerce
Long Beach Hospitality Alliance
Los Angeles County Business Federation
Menifee Valley Chamber of Commerce
Moreno Valley Chamber of Commerce

Murrieta/Wildomar Chamber of Commerce
Perris Valley Chamber of Commerce
Pomona Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Redlands Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Temecula Valley Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce
Upland Chamber of Commerce
Valley Industry and Commerce Association

ARGUMENTS IN SUPPORT: The sponsors of this bill, UNITE HERE!, writes, "Since the beginning of the pandemic, we have witnessed bad actor employers use the crisis to justify layoffs of elderly workers, workers who voice their concerns about unsafe working conditions/lack of PPE, or those who have agitated for a union. There are numerous examples of occurrences such as these, including at the Chateau Marmont in Los Angeles, the Terrenea Resort in Ranchos Palos Verdes, and the Sheraton San Diego.

"Right of recall and worker retention rights exist on both the state and local level. Several local governments have reacted to this pandemic by adopting right of recall ordinances, including the City and County of Los Angeles, Glendale, Long Beach, Pasadena, San Diego, Santa Clara County, Carlsbad, San Francisco, and Oakland. In 2001, in the wake of the September 11th terrorist attacks, Santa Monica adopted a right of recall ordinance for hotel workers which remains in effect."

ARGUMENTS IN OPPOSITION: A coalition of employers, including the California Hotel & Lodging Association, are opposed and write, "Hotels rely on a wide array of service contractors to provide specialized expertise at every step of the guest experience. For the thousands of small, independent hotels across California, this measure could increase transition and operating costs for both the hotel and new service providers beyond what the hotel's business and service contract can support. For example, if a hotel in a remote part of California currently receives its website support services from a multinational corporation but seeks to change providers, it would likely be unable to do so because:

1. There may not be any other service providers serving the area that are willing to navigate rehiring requirements.

2. Any available service providers would be required to offer employment to all of the multinational corporation's California employees who had some part (15 hours per week) servicing the account.

3. The service providers willing to undergo the transition have significantly increased their costs because there are few others willing to service the account (home insurance in wildfire zones come to mind as a general comparison to highlight the effect of high demand and limited supply).

"Again, it's important to note that hotels contract for a large number of services, so even if this small hypothetical hotel can obtain the needed services from one contractor, it would need to repeat the process for every service provider it needs to change. In effect, this measure chokes out hotels' abilities to operate and adapt to changes through the sheer volume of the potential burdens it seeks to assert on hotel contractors."

ASSEMBLY FLOOR: 49-20, 6/3/21
AYES: Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Aguiar-Curry, Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Cooley, Cooper, Daly, Frazier, Grayson, Mayes, Quirk-Silva, Blanca Rubio, Salas, Waldron

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
8/18/21 18:04:05

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

SENATE RULES COMMITTEE AB 1102
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1102
Author: Low (D)
Introduced: 2/18/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 7/12/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

ASSEMBLY FLOOR: 74-0, 4/8/21 (Consent) - See last page for vote

SUBJECT: Telephone medical advice services

SOURCE: Author

DIGEST: This bill clarifies that a telephone medical advice service is required to ensure that all health care professionals providing telephone medical advice services from an out-of-state location are operating consistent with the laws governing their licenses, in addition to their respective scopes of practice, and clarifies that a telephone medical advice service is required to comply with directions and requests for information made by the respective in-state healing arts licensing boards.

ANALYSIS:

Existing law:

1) Establishes the Department of Consumer Affairs (DCA) within the Business, Consumer Services, and Housing Agency to house licensing boards, bureaus, committees and a commission for purposes of licensure and regulation. (BPC § 100-144.5)

2) Regulates telephone medical advice services through the licensing boards responsible for the practice of the licenses providing the advice. (BPC § 4999-4999.7)

3) Defines "telephone medical advice" as a telephonic communication between a patient and a health care professional in which the health care professional's primary function is to provide to the patient a telephonic response to the patient's questions regarding the patient's or a family member's medical care or treatment, including assessment, evaluation, or advice provided to patients or their family members. (BPC § 4999.7(b))

4) Defines "telephone medical advice service" as any business entity that employs, or contracts or subcontracts, directly or indirectly, with, the full-time equivalent of five or more persons functioning as health care professionals, whose primary function is to provide telephone medical advice, that provides telephone medical advice services to a patient at a California address. The definition does not include a medical group that operates in multiple locations in California if no more than five full-time equivalent persons at any one location perform telephone medical advice services and those persons limit the telephone medical advice services to patients being treated at that location. (BPC § 4999)

5) Defines "health care professional" as an employee or independent contractor who provides medical advice services and is appropriately licensed, certified, or registered as a dentist, dental hygienist, dental hygienist in alternative practice, or dental hygienist in extended functions, as a physician and surgeon, as a registered, as a psychologist, as a naturopathic doctor, as an optometrist, as a marriage and family therapist, as a licensed clinical social worker, as a licensed professional clinical counselor, or as a chiropractor, and who is operating consistent with the laws governing the licensee's respective scopes of practice in the state in which the licensee provides telephone medical advice services. (BPC § 4999.7)

This bill:

1) Clarifies that a telephone medical advice service is required to ensure that all health care professionals who provide telephone medical advice services from an out-of-state location are operating consistent with the laws governing their respective licenses, in addition to their scopes of practices.

2) Clarifies that a telephone medical advice service is required to comply with all directions and requests for information made by the respective healing arts licensing boards.

Background

Telephone Medical Advice Services. The Telephone Medical Advice Services Bureau (TMAS) was created in 1999 (AB 285, Corbett, Chapter 535, Statutes of 1999) in response to a situation in which a Senator's constituent was unable to contact her physician over the phone, received inadequate service at a clinic, and then died after surgery at a hospital. Under that regulatory structure, any business that provided telephone medical advice services to a patient in California, who employs or contracts with five or more health care professionals, was required to register with the Bureau.

Through the sunset review oversight of DCA in 2015-2016, it was noted that consumers were already protected from unlicensed providers by the other DCA regulatory health boards because telehealth statutes had evolved to authorize and regulate the provision of healthcare remotely via the telephone and other technologies. TMAS was eliminated as of January 1, 2017.

At the time, TMAS was under the direct control of the DCA. When TMAS sunset, there was no DCA unit or division to assume the duties overseeing telephone medical advice companies, so the enforcement duties were transferred to individual boards through their existing authority over the practice of the relevant licensed practitioners.

The law, though, still requires companies to comply with DCA direction and requests for information. The DCA of course only has limited authority over licensing boards and their licensees, as boards make licensing and enforcement decisions. The law may not be as clear as to the authority of boards over telephone medical advice service businesses. This bill would clarify that the enforcement of the regulation of telephone medical advice services is within the jurisdiction of boards by requiring them to comply with directions and requests from the boards, not just the DCA.

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

SUPPORT: (Verified 7/14/21)

California Association of Orthodontists
Medical Board of California

OPPOSITION: (Verified 7/14/21)

None received

ARGUMENTS IN SUPPORT: The California Association of Orthodontists writes in support and notes, "This bill would address the problem by clarifying that the telephone medical advice companies must also comply with directions and requests for information from not just the DCA, but also any licensing board that has jurisdiction over the type of advice being provided. Further, by virtue of hiring the professionals, the companies themselves may be providing services under state law. As a result, the oversight of these companies should be clarified to also include the licensing boards. It would also clarify that a person who resides out of state and provides telephone medical advice in California must comply with the specific licensing requirements (e.g. not delinquent), not just the scope of practice requirements of their own state's license."

The Medical Board of California writes in support and notes, "[This bill] would specify that a telephone medical advice service is required to ensure that all health care professionals who provide telephone medical advice services from an out-of-state location are operating consistent with the laws governing their respective licenses. The bill would also specify that a telephone medical advice service is required to comply with all directions and requests for information made by the respective healing arts licensing boards. By clarifying that these organizations must comply with directions and requests from the Board with regard to the practice of medicine, AB 1102 furthers the Board's mission of consumer protection."

ASSEMBLY FLOOR: 74-0, 4/8/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wicks, Rendon

NO VOTE RECORDED: Cooley, Holden, Mullin, Wood

Prepared by: Sarah Mason / B., P. & E.D. / 916-651-4104
7/15/21 13:21:39

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

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

THIRD READING

Bill No: AB 1110
Author: Robert Rivas (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/30/21
AYES: Roth, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 7/6/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Portantino, Rubio, Wilk
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 74-0, 6/2/21 - See last page for vote

SUBJECT: Zero-emission vehicles: Office of the California Clean Fleet Accelerator: Climate Catalyst Revolving Loan Fund Program

SOURCE: NextGen California

DIGEST: This bill establishes the position of Clean Vehicle Ombudsperson within the Governor's Office of Business and Economic Development (GO-Biz), who would, among other things, consult with appropriate entities to increase participation in a statewide contract or leveraged procurement agreement, as specified. This bill requires the Strategic Growth Council (SGC) to review and make a recommendation on providing financial assistance to facilitate climate catalyst projects that consist of the acquisition of zero-emission fleet vehicles.

ANALYSIS:

Existing law

1) Establishes GO-Biz within the Governor's Office for the purpose of serving as the lead state entity for economic strategy and marketing of California on issues relating to business development, private sector investment and economic growth. (Government Code (GC) §§ 12096 – 12098.5)

2) Authorizes GO-Biz as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Authorizes GO-Biz, in this capacity, to coordinate the development of policies and criteria to ensure that federal grants administered or directly expended by state government advance statewide economic goals and objectives. Authorizes GO-Biz to market the business and investment opportunities available in California by working in partnership with local, regional, federal, and other state public and private institutions to encourage business development and investment in the state. Authorizes GO-Biz to support small businesses by providing information about accessing capital, complying with regulations, and supporting state initiatives that support small business. (GC § 12096.3)

3) Establishes the Charge Ahead California Initiative, administered by the State Air Resources Board, includes goals of, among other things, placing in service at least one million zero-emission and near-zero-emission vehicles by January 1, 2023, and establishing a self-sustaining California market for zero-emission and near-zero-emission vehicles in which zero-emission and near-zero-emission vehicles are a viable mainstream option for individual vehicle purchasers, businesses, and public fleets. (Health and Safety Code (HSC) § 44258.4 *et seq.*)

4) Establishes the Bergeson-Peace Infrastructure and Economic Development Bank Act and creates the California Infrastructure and Economic Development Bank (IBank). (GC § 63000 et seq.)

5) Establishes GO-Biz as the administrator of the Fund. (GC § 63021)

6) Establishes IBank as under the direction of and executive director appointed by the Governor, confirmed by the Senate. (GC § 63021)

7) Outlines IBank shall be governed and its corporate power exercised by a board of directors, consisting of the following persons:

a) Director of Finance or his or her designee.

b) The Treasurer or his or her designee.

c) The Director of the GO-Biz or his or her designee, who shall serve as chair of the board.

d) An appointee of the Governor.

e) The Secretary of Transportation or his or her designee. (GC § 63021.5)

8) Authorizes IBank to make loans, issue bonds, and provide other economic development assistance, among other things. (GC § 63050 et seq.)

9) Establishes the Climate Catalyst Revolving Loan Fund Act of 2020. (GC § 63048.91 (a))

10) Establishes the Climate Catalyst Revolving Loan Fund Program, authorizes the I-Bank to provide financial assistance to any eligible sponsor or participating party for eligible climate catalyst projects, as provided, and defines various terms for these purposes. (GC §§ 63048.91 (c)(d))

11) Requires SGC, in consultation with the Labor and Workforce Development Agency, to advise the Legislature before the end of each calendar year of potential categories of climate catalyst projects that would focus on the state's key climate mitigation and resilience priorities, as provided. (GC § 63048.92 (d))

12) Creates the Climate Catalyst Revolving Loan Fund and makes moneys available, upon appropriation, for expenditure for purposes of the Climate Catalyst Revolving Loan Fund Program. (GC § 63048.95 (b)(1))

This bill:

1) Establishes the position of Clean Vehicle Ombudsperson within GO-Biz, who would, among other things, consult with appropriate entities to increase participation in a statewide contract or leveraged procurement agreement, as specified.

2) Requires SGC to review and make a recommendation on providing financial assistance to facilitate climate catalyst projects that consist of the acquisition of zero-emission fleet vehicles.

Background

The Need for Alternative Energy Sources in Transportation. Transportation is one of the key sectors that can support innovative solutions to combat climate changes. According to the U.S. Energy Information Administration, 91% of energy consumed in U.S. transportation comes from petroleum. The transportation sector is also the leader in greenhouse gas emissions (GHGs), accounting for 28% of GHGs in the U.S. To combat this, states across the country have implemented incentive programs and initiatives to encourage the use of alternative fuels such as natural gas, electricity, and biofuels, as well as incentives to promote adopting electric vehicles (EVs) such as plug-in hybrid vehicles (PHEVs) and battery electric vehicles (BEVs).

California's Green Energy and Economy Efforts. California has been a leader in prioritizing green energy and a green economy. In 2006, AB 32 (Nunez, Chapter 488, Statutes of 2006) required the California Air Resources Board (CARB) to determine the 1990 statewide GHG emissions level and approve a statewide GHG emissions limit that was equivalent to that level, to be achieved by 2020, and to adopt GHG emissions reductions measures by regulation. AB 32 (Pavley, Chapter 249, Statutes of 2016) modified this goal slightly, requiring CARB to ensure statewide GHG emissions are reduced to 40% below the 1990 level by 2030. In 2018, Governor Jerry Brown signed SB 100 (De León, Chapter 312, Statutes of 2018), which increased the Renewables Portfolio Standard (RPS) requirement from 50 to 60 percent by 2030, and created a policy which endeavors to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045. Governor Brown also signed an Executive Order in 2018 requiring that California reduce its net output of GHGs to zero by 2045. Governor Newsom has engaged in a number of climate-related efforts as well, including issuing an Executive Order requiring sales of all new passenger vehicles to be zero-emission by 2035, requiring the end of new permits for hydraulic fracturing (or "fracking") by January 2024, and requesting that CARB analyze how to phase out oil extraction in California by 2045. According to the EPA, the oil and gas sector is one of the highest overall contributors to GHG emissions.

In Governor Newsom's executive order described above that requires sales of all new passenger vehicles to be zero-emission by 2035, Governor Newsom also set the goals of having 100% of medium- and heavy-duty vehicles in the state be zero-emission by 2045 for all operations, where feasible, and by 2035 for drayage trucks, and 100% zero-emission of off-road vehicles and equipment by 2035, where feasible.

GO-Biz. In March 2012, Governor Brown initiated a reorganization process to realign the state's administrative structure. Key changes include dismantling of the Business, Transportation and Housing Agency (BTH) and the shifting of a number of key programs to GO-Biz including the Small Business Loan Guarantee Program, the California Travel and Tourism Commission, the California Film Commission, the Film California First Program, and IBank. Currently, GO-Biz administers the Zero Emission Vehicles (ZEV) Infrastructure Unit which works to "accelerate the deployment of ZEV infrastructure, among other programs.

The Zero Emission Vehicles (ZEV) Infrastructure Unit. According to its website, the GO-Biz ZEV Unit "works to accelerate the deployment of ZEV infrastructure in pursuit of Governor Brown's goal of 200 hydrogen fueling stations and 250,000 plug-in electric chargers, including 10,000 direct current fast chargers, by 2025. These targets put California on the path to hosting 5 million ZEVs by 2030 and meeting our climate, air quality, and clean energy goals. While our state has made considerable progress deploying ZEV infrastructure, more remains to be done to increase consumer confidence in the expanding network.

"Massive ZEV adoption is essential for California to meet health-based air quality requirements and climate-driven GHG emission reduction targets in the coming decades. ZEVs, which include Plug-in Electric Vehicles (PEVs) and hydrogen Fuel Cell Electric Vehicles (FCEVs), share two fundamental attributes: they are electric drive vehicles with zero tailpipe emissions. PEVs store electricity on-board in batteries while FCEVs generate electricity on-board using hydrogen and fuel cells.

"ZEV success depends on a robust fueling infrastructure throughout California and beyond. The majority of PEV charging occurs at home, followed by work and public stations. FCEVs are almost always charged at public hydrogen fueling stations. Both models offer unique advantages when compared to conventional gasoline or diesel fueling, and GO-Biz strives to play to the strengths of each technology.

"[The] unit serves to coordinate state efforts to track and accelerate ZEV infrastructure and identify areas for business engagement and growth in California. [They] address barriers and cultivate opportunities to accelerate ZEV infrastructure and market growth."

Comments

Lack of Adoption of ZED: Local Governments. The author and sponsor say that local governments lack the technical and financial support required to procure zero emission vehicles for their fleets. In particular, "[l]ocal governments face three

primary barriers to ZEV adoption, especially for medium- and heavy-duty vehicles, which tend to be higher polluting and remain in service longer than light duty vehicles.

"First, smaller local governments may not have the staffing resources needed to effectively identify and pursue available state grants, technical assistance, and other tools available to jurisdictions with a dedicated full-time fleet manager.

"Second, medium- and heavy-duty zero-emission vehicle technology is still relatively young, resulting in fewer models available and higher up-front costs compared to their fossil-fuel counterparts, despite the lifetime savings they offer on fuel and maintenance costs. Cash-strapped local governments may be eager to adopt ZEVs as soon as possible but lack the bargaining power of larger jurisdictions to negotiate or other up-front savings options.

"Third, local governments may lack access to low-interest creative financing tools that can help them realize cost savings from ZEV adoption right away. As a result, most vehicle purchases are made through a large up-front capital outlay, which significantly reduces the buying power of the jurisdiction and prolongs expensive vehicle maintenance backlogs."

(NOTE: See the Senate Business, Professions, and Economic Development Committee analysis for detailed background of this bill.)

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

According to the Senate Appropriations Committee, GO-Biz anticipates annual costs of approximately $1.5 million to support the Ombudsperson's activities.

Unknown costs to the Department of General Services to assess its existing ZEV programs, develop and issue the statewide contract or leveraged procurement agreement, and coordinate with the Ombudsperson and IBank.

Unknown fiscal impact to the IBank to provide support or other assistance to the DGS or Ombudsperson to develop new or modified financing tools.

SUPPORT: (Verified 8/27/21)

NextGen California (source)
350 Bay Area Action
350 Humbolt
350 Silicon Valley
American Lung Association in California

Amply Power
Arrival
Association of California Water Agencies
Breathe California
California Communities Against Toxics
California Electric Transportation Coalition
California Interfaith Power and Light
California League of Conservation Voters
California Municipal Utilities Association
California New Car Dealers Association
Center for Community Action and Environmental Justice
Central California Asthma Collaborative
ClimatePlan
Coalition for Clean Air
Community Action to Fight Asthma
East Bay Municipal Utility District
Environmental Defense Action Fund
Environmental Defense Fund
Lordstown Motors
Los Angeles Cleantech Incubator
Motiv Power Systems
Regional Asthma Management and Prevention
Santa Clara Valley Water District
Southern California Edison
SPUR
The Climate Center
Transform
Union of Concerned Scientists
Western States Hydrogen Alliance
Zev 2030

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: Generally, supporters write that this bill will establish a point of contact within state government for local governments to turn to in order to access technical and financial assistance, particularly in rural areas without many funds to meet state climate goals. This bill will ensure that smaller cities, towns, and public agencies are not left behind.

ASSEMBLY FLOOR: 74-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Choi, Gallagher, Kiley, Seyarto

Prepared by: Dana Shaker / B., P. & E.D. /
8/31/21 9:37:39

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

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

AB 1111

THIRD READING

Bill No: AB 1111
Author: Berman (D)
Amended: 8/26/21 in Senate
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Postsecondary education: common course numbering system

SOURCE: Author

DIGEST: This bill requires, by July 1, 2024, the California Community Colleges (CCCs) to adopt a common course numbering system. This bill provides that the common course numbering system shall be student facing and ensure that comparable courses across all community colleges have the same course number.

ANALYSIS:

Existing law:

1) Requires the Board of Governors of the CCC to develop, maintain, and disseminate a general common course numbering system for use by the community college district. (Education Code § 71027)

2) Declares that it is the Legislature's intent to facilitate articulation and seamless integration of California's postsecondary institutions. Further states that the purpose of building and implementing a common course numbering system is to provide for the effective and efficient progression of students within and

among the higher education segments and to minimize duplication of coursework. (EC § 66725 (a))

3) Requires the CCC and the California State University (CSU), and requests the University of California (UC) and private postsecondary institutions, to adopt a common course numbering system for the 20 highest-demand majors in the respective segments. Additionally, current law requires each campus of a public postsecondary educational institution to incorporate the common course numbering system in its catalogue. (EC § 66725.3 (a) and (c))

4) Appropriated, under the Budget Act of 2018, ongoing funds to support the Academic Senate's develop the course identification numbering system, known as C-ID. (SB 840, Committee on Budget, Chapter 29, Statues of 2018)

This bill requires, by July 1, 2024, the CCCs adopt, at all community colleges and for each community college campus catalog, a common course numbering system. It further requires the common course numbering system to be student-facing and ensure that comparable courses across all community colleges have the same course number. Specifically, this bill:

1) Requires, by July 1, 2024, for purposes of streamlining transfer from two – to four-year postsecondary educational institutions, both of the following to occur:

   a) The CCCs adopt of a common course numbering system for all general education requirement courses and transfer pathway courses.

   b) Each CCC campus incorporate into their course catalog the common course numbers from the adopted common course numbering system into each community college catalog.

2) Requires that the common course numbering system be student facing, based on the work of the workgroup established in the Budget Act of 2021, and ensure that comparable courses across all community college have the same course number.

3) Requires the workgroup established in the Budget Act of 2021 to consider starting with courses included in the existing C-ID and expanding to general education requirements and transfer pathway courses to support the development and implementation of the common course numbering system.

4) Allows the common course number system to have the same alphabetical identifier and same numerical identifier for each course that share the same C-ID course description, pursuant to both of the following:

   a) For all courses included in the C-ID, the CCCs may adopt the alphabetical and numerical identifier of the C-ID course descriptor as the same common course number at all community colleges.

   b) For all general education requirements and transfer pathway courses that are not included in the C-ID, intersegmental discipline faculty through the C-ID process may develop a C-ID course descriptor for each of these courses and adopt the common alphabetical and numerical identifier of the C-ID descriptor as the common course number, as specified.

Comments

1) *Need for the bill.* Community college students take courses at multiple community colleges within a district or even across districts, and many use different student-facing course numbering systems. According to the author, "The deficiency in current law is that while the Legislature has passed legislation requiring a common course numbering system at the community colleges, a student facing common course number system still does not exist." The author further asserts that, although information on the C-ID number system's website claims to address the need for common course numbers by providing a mechanism to identify comparable courses, students often do not see the C-ID number or may not even know what C-ID is. In addition, courses that have the same C-ID number are still numbered differently at community colleges, which creates unnecessary confusion for students and is a barrier to timely transfer. The author argues, "AB 1111 is taking a student-driven approach (consistent with the intent of previous legislation and a recommendation from the recent Recovery with Equity Taskforce report) to develop a student facing common course numbering system at the California Community Colleges that would be easier for students to understand and navigate, saving them both time and money."

2) *Existing course identification numbering system C-ID.* As referenced in the background of this analysis, the current C-ID system was established to meet the legislative mandate for a common course numbering system among California's public colleges and universities for the 20 highest-demand majors to facilitate articulation pathways with four-year universities and across all 115 community colleges. A goal of the system was to identify comparable courses

within the community college system that would share the same common course identification or C-ID number. The matching C-ID number signifies that the two courses are equivalent in content and accepted by the other college. Overtime the C-ID structure evolved to account for articulation between colleges and universities--for CSU Associate Degree for Transfer pathway.

However, the current common number system is confusing and taking a mismatched course could have consequences, especially for CCC students seeking to transfer or satisfy perquisite course requirements among multiple community colleges. This bill requires that a common course numbering system be adopted for *all* general education and *all* transfer pathway courses at CCCs. It additionally requires that that information be available within *each* community college course catalog. The bill further allows for integration of C-ID system descriptors and the use of its development process for building a student-facing common course numbering system.

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

According to the Senate Appropriations Committee:

"The 2021 Budget Act provides $10 million on a one-time basis for the Chancellor's Office to allocate to a community college district to establish a workgroup that supports the development and implementation of a common course numbering system for the community college system, which should be sufficient to meet the bill's requirements within the prescribed timeframe."

SUPPORT: (Verified 8/26/21)

Office of Lieutenant Governor Eleni Kounalakis
Alliance for a Better Community
California Association of IB World Schools
California Association of School Counselors
California Competes: Higher Education for a Strong Economy
Campaign for College Opportunity
Community Equity Collaborative
Council for a Strong America
Genup
Hispanas Organized for Political Equality
Improve Your Tomorrow, Inc.
John Burton Advocates for Youth
Southern California College Access Network
Student Senate for California Community Colleges

University of California Student Association
Western Association for College Admission Counseling
Young Invincibles

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
8/31/21 9:37:40

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

SENATE RULES COMMITTEE AB 1150
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1150
Author: Frazier (D)
Introduced: 2/18/21
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: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/27/21 (Consent) - See last page for vote

SUBJECT: Charity racing days: distribution of proceeds

SOURCE: Author

DIGEST: This bill increases, from 30 percent to at least 40 percent, the percentage to be distributed to charities from a charity racing day.

ANALYSIS:

Existing law:

1) Grants the California Horse Racing Board (CHRB) the authority to regulate the various forms of horse racing authorized in this state.

2) Requires each licensed racing association to designate a certain number of racing days to be conducted as charity days for the purpose of distributing the net proceeds to beneficiaries.

3) Requires, among other distributions, that at least 30 percent of the distribution from charity day racing go to charities associated with the horse racing industry.

This bill increases, from 30 percent to at least 40 percent, the percentage to be distributed to charities from a charity racing day.

Background

Purpose of the bill. According to the author's office, "this bill provides the horse racing industry the ability to further support charities associated with the horse racing industry. Currently, charity day proceeds go to a number of causes, including a backstretch program to combat drug and alcohol abuse, a workers' welfare fund, support of disabled jockeys and other charities associated with the industry."

Charity racing days. Since the early 1940s, California racing associations have been required to conduct charity racing days. By law, each racing association must either dedicate a specified portion of its race meeting, based on the length of the race meet, for the benefit of charities meeting the statutory criteria and approved by the CHRB, or two-tenths of one percent of the total on-track handle on live races conducted by the association at the meeting.

The law prescribes the following minimum distribution of proceeds from charity racing days: 30 percent to charities associated with the horse racing industry; five percent to a welfare fund established for the benefit of horsemen, horsewomen, and backstretch personnel; five percent to a nonprofit corporation, the primary purpose of which is to assist horsemen, horsewomen, and backstretch personnel who are being affected adversely as a result of alcohol or substance abuse; and 20 percent to a nonprofit corporation or trust that has as its sole purpose the accumulation of endowment funds, the income of which shall be distributed to qualified disabled jockeys.

On charity racing days, the racing association furnishes the facilities and personnel necessary for the conduct of racing. The income from all operations of the race meeting on charity racing days, less deductions for actual expenses, is dedicated to charitable purposes. The following racing associations distributed funds last year: Los Angeles Turf Club; Hollywood Park Racing Association; Del Mar Thoroughbred Club; Los Alamitos Quarter Horse Racing Association; and, the Pacific Racing Association. According to CHRB, the donations in the last fiscal year totaled $303,088.

Permanently Disabled Jockeys Fund. Starting in 2003, 20 percent of the proceeds from California's charity racing days have been required to be provided as an

endowment to assist with qualified disabled jockeys. In 2006, the Permanently Disabled Jockeys Fund (PDJF) was incorporated to help defray everyday expenses incurred by jockeys associated with living with a catastrophic injury and to provide financial support and assistance in obtaining medical coverage for permanently disabled jockeys.

This bill increases the minimum distribution from charity day horse racing required to be allocated to charities associated with the horse racing industry from 30 percent to 40 percent.

Related/Prior Legislation

SB 2637 (Hall, Chapter 241, Statutes of 2014) increased from 20 percent to 30 percent the minimum distribution from charity horse racing days required to be allocated to charities associated with the horse racing industry.

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

SUPPORT: (Verified 8/10/21)

None received

OPPOSITION: (Verified 8/10/21)

None received

ASSEMBLY FLOOR: 75-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood
NO VOTE RECORDED: Maienschein, Mullin, Rendon

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/18/21 14:17:29

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

SENATE RULES COMMITTEE AB 1171
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1171
Author: Cristina Garcia (D) and Low (D), et al.
Amended: 9/2/21 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 7/13/21
AYES: Bradford, Ochoa Bogh, Durazo, Kamlager, Skinner

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 74-0, 6/3/21 - See last page for vote

SUBJECT: Rape of a spouse

SOURCE: Santa Clara County District Attorney

DIGEST: This bill repeals provisions of code relating to spousal rape thereby making an act of sexual intercourse accomplished with a spouse punishable as rape if the act otherwise meets the definition of rape.

Senate Floor Amendments of 9/2/21 make technical grammatical changes to this bill and add double-jointing language to avoid chaptering issues with SB 299 (Leyva), SB 320 (Eggman), AB 939 (Cervantes), and AB 1579 (Assembly Judiciary Committee) of this legislative session.

ANALYSIS:

Existing law:

1) Provides that the punishment for rape and spousal rape is imprisonment in the state prison for three, six or eight years. (Pen. Code, § 264.)

2) Specifies that rape of a spouse is the act of sexual intercourse with a spouse accomplished under any of the following circumstances: (Pen. Code, § 262.)

    a) Against a person's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another;
    b) When a person is prevented from resisting by an intoxicating or anesthetic substance, controlled substance, and this condition was known, or should have been known, to the accused;
    c) Where the person was unconscious of the nature of the act, as one of the following:
        i) The victim was unconscious or asleep;
        ii) The victim was not aware, knowing, perceiving, or cognizant that the act occurred; or
        iii) The victim was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact (the perpetrator tricked, lied to, or concealed the information);
    d) Against the victim's will by threats, as defined.
    e) Against the victim's will by threat of authority, as defined.

3) Provides sentences of 15-years-to-life, 25-years-to-life, or life without the possibility of parole for certain sex crimes if specified circumstances are found to be true. (Pen. Code, § 667.61.

4) Includes within the qualifying offenses under the One-Strike Sex Law rape and spousal rape accomplished by force, duress, menace, or fear of immediate and unlawful bodily injury and rape and spousal rape accomplished by threat of retaliation. (Pen. Code, § 667.61, subd. (c).)

5) States that it is the intent of the Legislature that district attorneys prosecute violent sex crimes under statutes that provide sentencing under a "one strike," "three strikes" or habitual sex offender statute instead of engaging in plea bargaining over those offense. (Pen. Code, § 1192.7.)

6) Provides that in addition to the acts that would constitute rape if committed against a spouse, an act of sexual intercourse with a non-spouse accomplished under any of the following circumstances is also rape: (Pen. Code, § 261, subd. (a).)

    a) Where the victim is incapable of giving legal consent due to a mental disorder or developmental or physical disability;

b) By false pretenses (where the perpetrator gains consent by pretending to be someone known to the victim other than the perpetrator); or,
c) Where the victim is unconscious of the nature of the act because the perpetrator fraudulently represented that the sexual penetration served a professional purpose.

7) Provides that an unmarried person under 18 years of age is capable of consenting to and consummating marriage upon obtaining a court order granting permission to the underage person or persons to marry. (Fam. Code, § 302, subd. (a).)

8) Requires a person convicted of rape to register as a sex offender; but requires a person convicted of spousal rape to register as a sex offender only if they commit the offense by use of force or violence and served a state prison sentence. (Pen. Code, § 290, subd. (c)(1).)

9) Gives courts discretion to impose sex offender registration on those persons convicted of spousal rape who are not already required to register as sex offenders. (Pen. Code, § 290.006.)

10) Requires a person required to register as a sex offender to be listed on the Megan's law website, except as specified. (Pen. Code, § 290.46.)

11) Prohibits the court from granting probation for rape committed under the following circumstances: (Pen. Code, § 1203.065, subd. (a).

a) Against a person's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another;
b) When a person is prevented from resisting by an intoxicating or anesthetic substance, controlled substance, and this condition was known, or should have been known, to the accused;
c) Where the person was unconscious of the nature of the act; or
d) Against the victim's will by threat of retaliation, as defined.

12) Provides that before probation may be granted for the crime of rape or spousal rape, the court must:

a) Order a diagnostic study of the defendant, which can include being placed in a facility for up to 90 days;

b) Conduct a hearing at the time of sentencing to determine if the defendant would pose a threat to the victim; and,
c) Order a psychologist or psychiatrist appointed to include a consideration of the threat to the victim and the defendant's potential for positive response. (Pen. Code, § 1203.067. subd. (a).)

13) Provides that if probation is granted for rape or spousal rape, the defendant must complete a sex offender management program. (Pen. Code, § 1203.067. subd (b)(2).)

14) Prohibits plea bargaining when an indictment or information charges any serious felony, unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence. (Pen. Code, § 1192.7, subd. (a)(2).)

15) Classifies rape as a serious felony, strike. (Pen. Code, §§ 667 & 1192.7, subd. (c)(3).)

16) Allows the court in unusual circumstances to grant probation for rape committed against the victim's will by threat of authority. (Pen. Code § 1203.065, subd. (b)(1).)

This bill:

1) Repeals the provisions of the Penal Code related to spousal rape.

2) Expands the circumstances under which sexual intercourse with a spouse is rape, to include these circumstances: where a spouse submits to sexual intercourse under false pretenses; or where the offending spouse fraudulently represents that the sexual penetration serves a professional purpose.

3) Clarifies that when spouses have sexual intercourse and one of the spouses has specified mental disorders or disabilities, that prosecution for rape is not precluded under any other provision of the law.

4) Requires a person convicted of rape of their spouse to register as a sex offender, thereby eliminating the discretion of judges to not impose registration when the rape is committed in a manner that does not involve force or violence and a prison sentence.

5) Prohibits probation and requires a mandatory state prison sentence for rape of a spouse accomplished under the following circumstances:

    a) Against the spouse's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the spouse or another;
    b) When a spouse is prevented from resisting by an intoxicating, anesthetic, or controlled substance, and this condition was known, or should have been known, to the accused spouse;
    c) Where the spouse was unconscious of the nature of the act; and,
    d) Against the spouse's will by threat of retaliation, as defined.

6) Eliminates the court's discretion to grant probation and requires a mandatory state prison sentence where spousal rape is accomplished against the spouse's will by threat of authority, as defined.

Background

Under California law, the crime of spousal rape is a separate crime from the crime of rape. While both crimes hold the same punishment in terms of the number of years an offender may spend in state prison, the crime of spousal rape differs from the crime of rape in terms of collateral consequences. Both crimes are punishable by imprisonment in state prison for three, six, or eight years. However, persons who are convicted of spousal rape are eligible to plea bargain their sentence and may be sentenced to probation while a person convicted of rape is not probation eligible. Likewise, when a defendant is convicted rape they face mandatory sex registration but a defendant convicted of spousal rape faces discretionary registration unless the rape was forcible and results in a prison sentence. In addition, the crime of spousal rape does not include instances where the victim is unable to consent to sexual intercourse due to a mental disorder or a developmental or physical disability; rape by false pretenses; or rape by fraudulent representation that the intercourse served a professional purpose.

This bill eliminates all distinctions between spousal rape and rape by eliminating the crime of spousal rape. Once eliminated, by operation of law, all acts considered rape under California law committed by a perpetrator upon a spouse would be treated in all manner as any rape under the Penal Code, § 261 et seq.

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

According to the Senate Appropriations Committee:

- *State Prison:* Unknown, potential increase in state costs for new commitments to state prison that would have resulted in a conviction of spousal rape with a sentence of probation under existing law. The FY 2020-2021 per capita cost to detain a person in a state prison is $112,691 annually, with an annual marginal rate per person of over $13,000. The contract bed rate averages to about $35,000 annually. The actual costs would depend on how many defendants are sentenced to prison because of this bill. (General Fund)

- *Department of Justice:* The department reports no significant costs associated with this measure.

SUPPORT: (Verified 9/2/21)

Santa Clara County District Attorney (source)
Office of Lieutenant Governor Eleni Kounalakis
U.S. Congressman Ro Khanna
Alameda County District Attorney's Office
California Coalition Against Sexual Assault
California Commission on The Status of Women and Girls
California National Organization for Women
City of San Jose
Contra Costa County National Organization for Women
Democratic Activist for Women Now Dawn
Democratic Party of The San Fernando Valley
Dolores Huerta Foundation
Enough Is Enough Voter Project
Equality Now
Feminist Majority
Feminist Majority Foundation
Hollywood Now
Joyful Heart Foundation
Los Angeles County Democratic Party
Los Angeles County District Attorney's Office
National Clearinghouse on Marital and Date Rape
National Organization for Women
National Women's Political Caucus of California
Next Door Solutions to Domestic Violence

Prosecutors Alliance of California
San Diego County District Attorney's Office
San Francisco Board of Supervisors
San Francisco Democratic Party
San Francisco District Attorney's Office
San Joaquin County District Attorney Office
Santa Barbara Women's Political Committee
Santa Clara County Democratic Party
Santa Clara County Supervisor Susan Ellenberg, District 4
Silicon Valley Democratic Club
South Bay Labor Council
Women's March San Jose

OPPOSITION: (Verified 9/2/21)

California Attorneys for Criminal Justice
California Public Defenders Association

ARGUMENTS IN SUPPORT: According to the Alameda County District Attorney's Office:

> "AB 1171 provides parity in California law and would require the same standards for spousal rape that are currently in the Penal Code for rape. Rape is universally acknowledged as a crime of violence that is both physically harmful to the victim. In California, rapists who are convicted under spousal rape law may face less severe sentencing and may not have to register as a sex offender.
>
> "When spousal rape is not treated as seriously as other forms of rape, it invalidates the victims' traumatic experiences and continues to promote rape culture. Moreover, a rapist should not be shielded from punishment simply because the rapist is married to the victim. Regardless of the relationship, rape is rape. AB 1171 eliminates the distinction so we can ensure justice for victims of sexual assault."

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

> "By taking away judicial discretion in sentencing, AB 1171 will force courts to sentence the spouse to state prison even when the victim has explicitly stated that they do not want prison because of the economic hardship it will impose on the victim and the children or when sentencing the spouse to prison will make the family homeless or when the victim only sought to get help for the spouse.

These are all circumstances in which the judge has discretion under existing law to evaluate in sentencing the spouse to prison or granting probation.

"Even more draconian, AB 1171 will require mandatory sex offender registration for spousal rape. Among the many repercussions, requiring mandatory sex offender registration may preclude the individual from having future contact with either their children with the victim spouse or their children from a different union."

ASSEMBLY FLOOR: 74-0, 6/3/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, 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, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Carrillo, Gray, Jones-Sawyer, Waldron

Prepared by: Gabe Caswell / PUB. S. /
9/4/21 7:15:13

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

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

THIRD READING

Bill No: AB 1173
Author: Cooper (D)
Amended: 9/2/21 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 7/6/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/20/21 (Consent) - See last page for vote

SUBJECT: Horse racing: advance deposit wagering: hub agreement arbitration

SOURCE: Los Angeles Turf Club, Inc.

DIGEST: This bill requires the contractual compensation received by the Advance Deposit Wagering (ADW) provider to be the average of the contractual compensation specified in the hub agreement that is the subject of the arbitration and the contractual compensation set forth in the arbitration case.

Senate Floor Amendments of 9/2/21 delete the provision of this bill that would have increased the number of nonthoroughbred races that may be held at a thoroughbred racing association from six to eight per year.

ANALYSIS:

Existing law:

1) Provides that, pursuant to Article IV, Section 19(b) of the California Constitution, the Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

2) Grants the California Horse Racing Board (CHRB) the authority to regulate the various forms of horse racing authorized in this state.

3) Authorizes ADW to be conducted, upon approval of CHRB, as specified; and, requires an ADW provider to include all wagers made in the appropriate parimutuel pool under a contractual agreement with the applicable host track and to deduct amounts from ADWs as specified.

4) Establishes procedures for the arbitration of disputes arising from hub agreements, and sets the contractual compensation received by the ADW provider as the contractual compensation specified in the hub agreement that is the subject of the hub agreement arbitration.

This bill:

1) Requires that the contractual compensation received by the ADW provider shall be the average of the contractual compensation specified in the hub agreement that is the subject of the arbitration and the contractual compensation set forth in the arbitration case.

2) Requires an arbitrator to select the set of terms that most accurately reflects the then-existing market rate of compensation for the services provided by the ADW provider based on all relevant facts and circumstances relating to California resident ADW wagering.

3) Deletes existing law specifying that the arbitrator's decision is final and binding on the parties.

4) Specifies that if an arbitration is requested, either party may bring an action in state court to compel a party to go into arbitration, to review the arbitrator's decision.

5) Makes other technical, nonsubstantive changes.

Background

Purpose of this bill. According to the author's office, "AB 1173 addresses technical defects in horseracing law to ensure that the process for determining fair compensation, paid to licensed account wagering service providers for processing wagers from California residents on live horseraces, is consistent with the

legislative intent. State regulated and licensed ADW by California residents is a critical element of the California horse racing industry with over $1 billion wagered by California residents in 2020."

Horse racing in California. Wagering on horse racing in California was legalized via a constitutional amendment in 1933 and since that time Thoroughbred and Quarter horses have been allowed to race in virtually all flat races offered in the state while Arabians have generally been restricted to racing at fair race meets throughout California. CHRB approves many different types of horse racing, including flat racing, jump racing, harness racing, and endurance racing. Each type of racing has different breeds that excel in a specific type of race and generally, entry in such races is restricted to certain breeds.

Parimutuel wagering. Horse racing has been taking place in California since the 1800s, but horse racing as we now know it – under the parimutuel wagering system – was not made possible until the electorate passed a constitutional amendment in 1933. The expressed intent of the Horse Racing Law is to allow parimutuel wagering on horse races. Parimutuel, from the French Pari-Mutuel or mutual betting, is a betting system in which all bets of a particular type are placed together in a pool, and payoff odds are calculated by sharing the pool among all winning bets. Parimutuel betting differs from fixed-odds betting in that the final payout is not determined until the pool is closed – in fixed-odds betting, the payout is agreed at the time the bet is sold.

Advance Deposit Wagering. ADW is a form of gambling that has become increasingly popular across the United States. ADW is best defined in a general sense as a form of gambling in which the bettor must fund an account before begin allowed to place bets. That means you cannot place a wager on a race or event if you do not have sufficient money in your account to cover your stake. It is most usually specifically applied to off-track betting on horse racing.

Simulcasting. Simulcasting is the process of transmitting the audio and video signal of a live racing performance from one facility to a satellite for re-transmission to other locations or venues where pari-mutuel wagering is permitted. Simulcasting provides racetracks with the opportunity to increase revenues by exporting their live racing content to as many wagering locations as possible, such as other racetracks, fair satellite facilities, and Indian casinos. Revenues increase because simulcasting provides racetracks that export their live content with additional customers in multiple locations who would not have otherwise been able to place wagers on the live racing event. Existing law limits the total number of races imported by associations or fairs on a statewide basis not to exceed 50 per

day on days when live thoroughbred racing or fair racing is being conducted in the state. This bill adds the Pegasus World Cup to an existing list of exempted races under the current limit.

ADW legal dispute. Earlier this year, a subsidiary of Churchill Downs, Inc. that operates ADW companies sued the Thoroughbred Owners of California (TOC) for invoking state statue in an effort to bring a dispute over simulcast hub fees into binding arbitration. CHRB was then asked to intervene in the litigation by TOC. A letter dated March 1, 2021, from then Attorney General Xavier Becerra's office, concluded that the CHRB can intervene in the litigation as a matter of right, however, "it does not appear that the challenged provision, Business & Professions Code section 19604, subdivision (a)(8)(C), will survive constitutional challenge."

Due to the COVID-19 pandemic, and resulting closure of in-person betting, wagering on horse races shifted significantly to ADWs. According to the TOC, "ADW wagering in California increased by over 40% year over year statewide in 2020 while purse generation from live tracks and OTBs dropped substantially." Existing law authorizes an ADW to enter in a hub agreement with a racetrack, a horsemen's organization, or both. However, under existing law, a horsemen's organization (or racetrack) may file a written demand for arbitration within 10 days of receiving a copy of a hub contract – TOC did so.

The dispute centered on a hub agreement reached on December 22, 2020, between Santa Anita Park and Churchill Downs' two ADW wagering companies which specified the percentage the ADW companies would receive on each dollar wagered by California residents using their platforms. The lawsuit was eventually dropped by Churchill Downs according to a "notice of voluntary dismissal" which stated the matter was settled via an agreement "without prejudice."

Existing law sets the maximum amount an ADW company may receive for facilitating a wager at 6.5 percent. Existing law also specifies that the contractual obligation received by the ADW provider shall be the contractual compensation specified in the hub agreement that is the subject of the hub agreement arbitration. This bill, instead, specifies that the compensation received by the ADW provider be the *average* of the contractual compensation and the contractual compensation set forth in the hub agreement arbitration notice.

Further, this bill specifies that the arbitrator in a dispute shall select the set of terms that most accurately reflects the then-existing market rate of compensation for the services provided by the ADW provider based on all relevant facts and

circumstances relating to California resident ADW wagering. This bill provides that if an arbitration is requested, either party may bring an action in state court to compel a party to go into arbitration, to review the arbitrator's decision, and deletes existing law stating that the arbitrator's decision shall be final and binding on the parties.

Supporters argue that this bill will remedy the challenged defects in the arbitration provisions in 19604(a)(8) by making clear that the decision of the arbitrator is not "final and binding" but rather is subject to judicial review; and, adding a standard for the arbitrator to apply in reaching his or her decision. It will also modify the rate of compensation to be paid by the company processing the wagers during the pendency of the arbitration and any subsequent court challenges so that such interim rate of compensation it is fair to all parties.

Related/Prior Legislation

AB 351 (Garcia, 2021) adds the Pegasus World Cup to the group of out-of-state horseraces that are exempt from the 50-race per day limit on imported races in California. (Pending on the Senate Floor)

AB 558 (Low, Chapter 3, Statutes of 2016) allowed the CHRB to authorize a racing association licensed to conduct a Thoroughbred racing meet to include up to six non-Thoroughbred races.

AB 471 (Hertzberg, Chapter 198, Statutes of 2001) authorized, among other things, the CHRB to permit racing associations to accept ADWs, as defined.

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

SUPPORT: (Verified 9/2/21)

Los Angeles Turf Club, Inc. (source)
California Thoroughbred Breeders Association
Golden Gate Fields
Pacific Racing Association
Santa Anita Park
Thoroughbred Owners of California

OPPOSITION: (Verified 9/2/21)

Churchill Downs Incorporated

ARGUMENTS IN SUPPORT: In support of this bill, Los Angeles Turf Club, Inc. writes that, "AB 1173 would address some technical defects in the horseracing law to ensure that the process for determining the fair compensation to be paid to licensed account wagering service providers for processing wagers from California residents on live horseraces is consistent with the legislative intent at the time of passage of 19604(a)(8). State regulated and licensed advanced deposit wagering (ADW) by California residents is a critical element of the California horse racing industry with over $1 billion wagered by California residents in 2020."

ARGUMENTS IN OPPOSITION: Churchill Downs Incorporated writes, "According to the author's office, AB 1173 is intended to resolve a constitutional defect in Business and Professions Code 19604 identified by the State Attorney General pursuant to a request for review by the California Horse Racing Commission. In March, the Attorney General issued an opinion indicating this code section would not likely survive a legal challenge to its constitutionality as the statute does not provide for judicial review of the arbitration proceedings set forth in the statute. The initial question relating to the constitutionality of the statute arose from a lawsuit filed by our client's wholly-owned subsidiary Churchill Downs Technology Initiatives Company ('CDTIC'). That lawsuit challenged the validity and enforceability of the statute. The author's office and proponents of AB 1173 have stated publicly that the purpose of the bill is to resolve the constitutional defect in the statute identified by the Attorney General."

The opponents continue that the bill "was amended at the last possible moment prior to the final hearing of the Senate Government Organization Committee on July 6 and passed out of the committee on this basis. AB 1173 does much more. There are additional amendments contained in the bill that go substantially beyond the constitutional fix outlined in the Attorney General's opinion. The additional amendments have not been addressed by the author's office or the proponents of the bill. In fact, the bill was presented as not changing existing law. The amendments contained in AB 1173 add provisions to the statute dealing with compensation to be awarded ADW providers as a result of an arbitration and add additional provisions intended to direct the arbitrator to make his or her decision on compensation by looking at all relevant facts, circumstances, and the existing market rate of payments. These amendments are a continued attempt by in-state entities to maintain and leverage the statute to their advantage, which will ultimately do nothing but subject the statute to further litigation and expose the state to much broader constitutional concerns regarding its parimutuel statutes."

ASSEMBLY FLOOR: 76-0, 5/20/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cunningham, Kalra

Prepared by: Brian Duke / G.O. / (916) 651-1530
9/4/21 7:15:08

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

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

THIRD READING

Bill No: AB 1184
Author: Chiu (D), et al.
Amended: 8/31/21 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 8-1, 7/7/21
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Roth, Rubio
NOES: Melendez
NO VOTE RECORDED: Grove, Wiener

SENATE JUDICIARY COMMITTEE: 9-2, 7/13/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Skinner, Stern, Wieckowski
NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 59-13, 5/13/21 - See last page for vote

SUBJECT: Medical information: confidentiality

SOURCE: Planned Parenthood Affiliates of California

DIGEST: This bill revises and recasts, effective July 1, 2022, provisions of existing law that require health plans and insurers to accommodate requests for confidential communication of medical information (CCRs) to instead require health plans and insurers to accommodate CCRs regardless of whether it involves sensitive services or a situation in which disclosure would endanger the individual. This bill also requires health plans/insurers to direct all communications regarding a protected individual, as defined, receipt of sensitive health care services directly to the protected individual, and prohibits the disclosure of that information to the policyholder without the authorization of the protected individual. This bill further requires health plans/insurers to notify subscribers/enrollees that they may submit a CCR and how they may submit a CCR, and requires information about CCRs to be

provided upon initial enrollment and on the plan/insurer's website, and in other specified instances.

Senate Floor Amendments of 8/31/21 make technical changes and delete a provision that required information about CCRs to be provided by a health plan/insurer in specific instances.

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. [HSC §1340, et seq. and INS §106, et seq.]

2) Requires health plans and insurers to permit enrollees/insureds to request, and to accommodate requests for, communication in the form and format requested by the individual, if it is readily producible in the requested form and format, or at alternative locations, if the enrollee/insured clearly states either that the communication discloses medical information or provider name and address relating to receipt of sensitive services or that disclosure of all or part of the medical information or provider name and address could endanger the enrollee/insured. These requests are referred to as "confidential communication requests" (CCRs). [CIV §56.107(a) and INS §791.29(b)]

3) Permits health plans and insurers to require that a CCR contain a statement that the request pertains to either medical information related to the receipt of sensitive services or that disclosure of all or part of the medical information could endanger the enrollee/insured. Prohibits health plans and insurers from requiring an explanation as to the basis for a statement that disclosure could endanger an enrollee/insured. [CIV §56.107 and INS §791.29(b)(3)]

4) Requires a CCR to be valid until the enrollee/insured submits a revocation of the request or a new request is submitted. Requires CCRs to be implemented within seven calendar days of receipt of an electronic transmission or telephonic request or within 14 calendar days of receipt by first-class mail. Requires health plans and insurers to acknowledge receipt of the CCR and advise the enrollee/insured of the status of implementation of the request if an enrollee/insured contacts the health plan or insurer. [CIV §56.107(a) and INS §791.29(b)(4)]

5) Defines "sensitive services" as health care services that minors can consent to, including: mental health treatment or counseling services; residential shelter services; medical care related to the prevention or treatment of pregnancy; diagnosis or treatment related to infectious, contagious, or communicable disease; prevention of sexually transmitted diseases; and HIV services, obtained by a patient at or above the minimum age specified for consenting to the service. [CIV §56.05(n) and INS §791.02(ac)]

This bill:

1) Deletes the condition that a enrollee/insured CCR clearly state either that a communication discloses medical information or provider name/address relating to receipt of sensitive services or that disclosure of all or part of the medical information or provider name/address could endanger the subscriber or enrollee in order for the health/plan insurer to accommodate the request under 2) of "existing law" above. Deletes existing law that permits health plans/insurers to require a statement accompany a CCR described under 3) of "existing law" above.

2) Prohibits health plans/insurers from requiring a "protected individual" to obtain the policyholder, primary subscriber, or other enrollee/insured's authorization to receive sensitive services or to submit a claim for sensitive services if the protected individual has the right to consent to care.

3) Defines "protected individual" as a covered adult or, a minor who can consent to a health care service without the consent of a parent or legal guardian. Specifies that "protected individual" does not include an individual that lacks the capacity to give informed consent for health care pursuant to existing law.

4) Requires health plans/insurers to recognize the right of a protected individual to exclusively exercise rights granted under this bill regarding medical information related to "sensitive services" that the protected individual has received.

5) Updates the definition of "sensitive services" to further clarify that mental or behavioral health, sexual and reproductive health, sexually transmitted infections, substance use disorder, gender affirming care, and intimate partner violence are included.

6) Requires health plans/insurers to direct all communications regarding a protected individual's receipt of sensitive services directly to the protected individual as follows:

    a) If the protected individual has designated an alternative mailing address, email address, or telephone number, health plans/insurers are required to send or make all communications related to the protected individual's receipt of sensitive services to the alternative mailing address, email address, or telephone number designated; and,
    b) If the protected individual has not designated an alternative mailing address, email address, or telephone number, health plans and insurers are required to send or make all communications related to the protected individual's receipt of sensitive services in the name of the protected individual at the address or telephone number on file.

7) Specifies that communications subject to these notifications include the following written, verbal, or electronic communications related to the receipt of sensitive services: bills and attempts to collect payment; notices of adverse benefits determinations; explanation of benefits (EOB) notice; requests for additional information regarding a claim; notices of contested claims; the name and address of a provider, description of services provided, and other information related to a visit; and, any written, oral, or electronic communication that contains protected health information.

8) Prohibits health plans/insurers from disclosing medical information related to sensitive services provided to a protected individual to the policyholder, primary subscriber, or any plan enrollees other than the protected individual receiving care, absent an express written authorization of the protected individual receiving care.

9) Requires health plans/insurers to notify subscribers and enrollees that they may submit a CCR and how they may submit a CCR. Requires information about CCRs to be provided upon initial enrollment and annually thereafter upon renewal:

    a) In a conspicuously visible location in the evidence of coverage; and,
    b) On the health plan/insurer website, accessible through a hyperlink on its home page and in a manner that allows enrollees/insureds, prospective enrollees/insureds, and members of the public to easily locate the information.

10) Makes the changes in 1) through 9) above effective on July 1, 2022, and makes other technical, conforming changes.

Comments

1) *Author's statement.* According to the author, when a patient accesses care for a sensitive service, including sexual and reproductive health care, confidentiality is of the utmost importance. Enrollees on a health insurance plan, such as children or people on their spouse's insurance plan, may not feel safe or comfortable having their health information shared with the policyholder through communication related to their insurance. Currently, patients with confidentiality concerns can protect their medical communications by requesting confidentiality, as established by SB 138 (Hernandez, Chapter 444, Statutes of 2013). However, the process for requesting confidentiality has been confusing and inconsistent between insurers; and has resulted in disclosure of sensitive information in some cases. By clearly and automatically establishing confidentiality, this bill guarantees that patients can safely access care without confusion or fear. Modeled off successful legislation in Washington State, this bill will also expand the definition of sensitive services to include transgender health care and behavioral health care, to ensure more individuals are able to have their privacy protected.

2) *Background.* According to a June 2021 Guttmacher Institute report, billing and claims processing procedures widely used in private health insurance routinely, albeit inadvertently, prevent anyone insured as a dependent on someone else's policy from obtaining sensitive services confidentially. One of the most frequent ways in which disclosure occurs is through EOBs sent by insurers to policyholders after anyone covered under their policy obtains care. EOBs—which typically identify the individual who received care, the health care provider and the type of care obtained—essentially make it impossible for dependents, often minors and young adults, to obtain the confidential access to sexual and reproductive health care they need. Several states have developed creative approaches to address these and broader confidentiality concerns: 14 states have provisions that serve to protect the confidentiality of individuals insured as dependents; six states allow individuals insured as dependents to request confidential communications from their insurance provider via a written request; four states have confidentiality protections specific to EOBs; six states explicitly protect the confidentiality of minors insured as dependents; four states have specific protections for minors seeking STI treatment; and, three states have protections for minors seeking any medical service.

3) *Challenges since the enactment of SB 138.* According to Essential Access Health (EAH), the sponsor of SB 138, between 2016 and 2019, an average of 50 people per year requested assistance through www.myhealthmyinfo.org in submitting a CCR to their health plan or to resolve issues after a CCR was submitted. Most cases involve administrative barriers that patients had to wade through in order to protect their health information. According to EAH, most cases were resolved with assistance from consumer advocates and attorneys. EAH provided several anecdotes where timeliness of honoring a CCR was a problem and where information was disclosed even though a CCR had been submitted. For example, EAH received 25 requests since 2016 from women covered under their parents' health plans, who had obtained birth control, but and did not want their parents to know. In each of these cases, attorneys from the ACLU and the National Center for Youth Law contacted the health plans to ensure the CCR was implemented quickly to prevent disclosure of information related to medical care that was already obtained. In some instances, patients delayed care to ensure that the CCR was honored prior to an appointment for fear that parents would find out. There have also been cases where information related to the provision of birth control or HIV prevention services were disclosed to parents even though a CCR had been submitted prior to the provision of care.

Related/Prior Legislation

SB 368 (Limon, 2021) requires a health plan/insurer to provide an enrollee/insured with their accrual balance toward their annual deductible and annual out-of-pocket maximum during any month in which benefits were used; permits an enrollee or insured to request their most up-to-date accrual balance toward their annual deductible and their annual out-of-pocket maximum from their health plan or insurer at any time; and requires accrual updates to be mailed unless the enrollee or insured opts out.

SB 1004 (Jackson, 2020) was substantially similar to this bill. *Due to the shortened Legislative calendar brought on by the COVID-19 pandemic, SB 1004 was not set for a hearing.*

SB 138 (Hernandez, Chapter 444, Statutes of 2013) required health plans and insurers to take specified steps to protect the confidentiality of an insured individual's medical information for purposes of sensitive services, or if disclosure of that information will endanger an individual.

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

SUPPORT: (Verified 8/18/21)

Planned Parenthood Affiliates of California (source)
American Civil Liberties Union California Action
American College of Obstetricians and Gynecologists District IX
California Department of Insurance
California Latinas for Reproductive Justice
California Partnership to End Domestic Violence
Depression and Bipolar Support Alliance California
Equality California
Essential Access Health
NARAL Pro-Choice California
Santa Barbara Women's Political Committee
Women's Foundation California
Women's Health Specialists

OPPOSITION: (Verified 8/18/21)

America's Health Insurance Plans
Association of California Life and Health Insurance Companies
California Association of Health Plans
California Family Council
Capitol Resource Institute
Pacific Institute – Center for Public Policy
Right to Life League of Southern California

ARGUMENTS IN SUPPORT: Planned Parenthood Affiliates of California, the sponsor of this bill, writes that while SB 138 aimed to ensure patient confidentiality, patients have experienced challenges following its implementation. Because health plans have seven days to implement a CCR submitted via phone and 14 days for CCRs submitted via mail, when a patient needs to access a timely service, like abortion or birth control, their confidentiality is not guaranteed. In addition, when a plan does not abide by the CCR, the only recourse for the patient is for them to file a complaint with DMHC – once the harmful disclosure has already occurred. This bill will improve confidentiality for patients by ensuring automatic confidentiality within a health insurance plan when a patient is accessing a sensitive service. By eliminating the CCR process, this bill will remove burden of ensuring confidentiality from patients, who have continued to face challenges ensuring confidentiality when accessing sensitive services. Since SB 138 was passed, consumer advocates have worked with patients whose CCRs were not

implemented and, as a result, had personal confidential information about health care services they received shared against their wishes. One patient submitted a CCR to her health plan because she was going to start taking birth control, but the plan disclosed her care to her parents. When she contacted the health plan, they told her that her request was denied because she was a dependent. It took her seeking out help from an attorney advocate to resolve her issues with the health plan, but the damage had already been done. Essential Access Health, the sponsor of SB 138, writes that while SB 138 aimed to ensure patient confidentiality, patients have experienced challenges following its implementation because the law places the onus on the patient to understand and navigate the complex world of health insurance. Since SB 138 took effect in 2015, Essential Access Health intervened in more than 200 cases where a patient needed help in submitting CCRs or to resolve a disclosure issue.

ARGUMENTS IN OPPOSITION: Pacific Institute – Center for Public Policy writes that this bill decreases transparency in an area where it is needed most—medical billing. This bill, in an effort to further hide information from parents and partners, would put policyholders in the impossible position of being financially responsible for bills they did not incur and cannot verify as being legitimate; and, it further limits parents' abilities to protect their children and even prevents partners from finding out when they are being exposed to a sexually transmitted disease. California Family Council writes that this bill seeks to remove parents from the protective role they have over their children, and it universally known that minors do better in life, are healthier, do better in school, and go on to become more productive members of society when they have involved parents.

America's Health Insurance Plans, the Association of California Life and Health Insurance Companies, and California Association of Health Plans jointly write that they appreciated the purpose of SB 138 and worked to establish a thoughtful and efficient statutory framework for honoring these requests, but understand that as industries evolve there is often an interest in evaluating and updating current practices. However, they are concerned with how broadly the mandate under this bill is being applied. Specifically, the bill appears to expand the current obligation and require plans/insurers accommodate all CCRs, regardless of the reason for which the request is being made. While all enrollees and insureds have the right to request a CCR, the initial plan obligation set forth in SB 138 was limited to sensitive services and instances in which the enrollee or insured felt endangered. This was intended to bridge the gap between placing an unlimited administrative burden on plans and acknowledging that there are instances for which a heightened need for privacy, especially as it relates to sensitive services, is necessary.

ASSEMBLY FLOOR: 59-13, 5/13/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Nguyen, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Cervantes, Chen, Choi, Gray, Mayes, Patterson

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
9/1/21 16:20:24

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

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

THIRD READING

Bill No: AB 1185
Author: Cervantes (D), et al.
Amended: 8/26/21 in Senate
Vote: 27 - Urgency

SENATE EDUCATION COMMITTEE: 7-0, 6/30/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Student financial aid: Cal Grant program

SOURCE: Author

DIGEST: This bill, an urgency measure, provides students with an additional year to meet time-out-of-high-school and age-related eligibility requirements for receiving Cal Grant financial aid. This bill repeals specified provisions of this measure on January 1, 2024.

ANALYSIS: Existing federal law provides federal financial aid, known as the Pell Grant, to students who demonstrate financial need. The Pell Grant award can be used for tuition and fees, books, and supplies, transportation, and living expenses for the equivalent of up to six years of full-time enrollment. The maximum Pell Grant for 2020-21 is $6,345 (United States Code, Title 20, Section 1070).

Existing state law:

1) Establishes the California Student Aid Commission (Commission) for the purpose of administering specified student financial aid programs (Education Code (EC) Section 69510, et seq.).

a) Cal Grant A Entitlement Awards. Students that meet income, asset and other eligibility requirements, have at least a 3.0 grade point average, and apply either the year they graduate from high school or the following year are entitled to an award that provides coverage for tuition and fees (EC 69434).

b) Cal Grant B Entitlement Awards. Students that meet income and asset thresholds and other eligibility requirements, have at least a 2.0 GPA and apply either the year they graduate from high school or the following year are entitled to a living allowance and tuition and fee assistance. Awards for most first-year students are limited to an allowance for non-tuition costs (access award), such as books and living expenses (currently $1,648). In the second and subsequent years, the award also provides tuition and fee support (EC Section 69435.).

c) California Community College (CCC) Transfer Entitlement Awards. Cal Grant A and B awards are guaranteed to every student who graduated from a California high school after June 30, 2000, was a California resident at the time of high school graduation, transferred to a qualifying baccalaureate-degree granting institution from a CCC during the award year, was under the age of 28 at the time of the transfer, and had a minimum CCC GPA of 2.4 (EC Section 69436.).

2) Establishes and defines three conditions or degrees of emergency, state of war emergency, state of emergency and local emergency. (Government Code Section 8558).

This bill, an urgency measure, due to the COVID-19 pandemic state of emergency, students with one additional year to meet time-out-of-high-school and age-related eligibility requirements for receiving Cal Grant financial aid. Specifically, this bill:

1) Provides students an additional year to meet the following Cal Grant requirements:

a) The Cal Grant A Entitlement program requirement that a student is no more than one year out from graduating from high school.

b) The Cal Grant B Entitlement program requirement that a student is no more than one year out from graduating from high school.

c) The California Community College Transfer Cal Grant Entitlement Program requirement that a student had attended a community college in the prior year.

d) The California Community College Transfer Cal Grant Entitlement Program requirement that a student will not be 28 years of age or older by December 31 of the award year.

2) Allows, for applications made in the 2021-22 and 2022-2023 academic years only, applicants for Cal Grant A, B and Transfer entitlement awards to submit complete financial aid applications for the first award year in the academic year immediately following their high school graduation or equivalent and to submit complete financial aid applications for the second award year in the second academic year after high school graduation or its equivalent.

3) Provides that for applications submitted in the 2021-22 and 2022-23 academic years only, the student will be 29 years of age or older by December 31 of the award year.

4) Repeals this bill's provisions on January 1, 2024.

5) Makes this bill an urgency measure in order to provide equitable access to financial aid for students whose educational plans have been disrupted by the COVID-19 pandemic.

6) Makes clarifying changes and address chaptering issues.

Comments

1) *Need for the bill*. According to the California Student Aid Commission in their letter in support of AB 1185, "The COVID-19 crisis has caused severe interruptions in higher education, forcing many students to withdraw from their studies. Among students surveyed in May 2020, one-third of returning postsecondary students indicated their enrollment plans for fall 2020 had changed, while another 22 percent responded they were not yet sure of their enrollment plans. A quarter of students currently enrolled indicated their plans changed due to a desire to stay closer to their family, suggesting a potential reluctance to move from home to attend a four year university. As California considers how to position students and our workforce for recovery from the COVID-19 pandemic and economic recession, it will be essential that state financial aid be positioned to support these students as we seek to re-engage them and ensure their enrollment into postsecondary education." This bill aims to ensure 2020 and 2021 high school graduates and community college transfers who delayed college enrollment maintain Cal Grant eligibility.

2) *Temporary extension of application window for entitlement award*. The majority of Cal Grant recipients receive grants as a high school entitlement

award. A smaller portion of recipients, receive community college transfer entitlement awards. As a condition of the award, otherwise eligible applicants have to enroll in college within one year from graduating high school or for CCC transfer entitlement directly after their community college attendance. This bill temporarily opens the application window giving recent high school graduates and community college transfer students an additional year to apply for aid.

3) *Temporary extension for age-related limitations for transfer entitlement award*. The California Community College Transfer Entitlement program provides an entitlement award to students who begin their education in a California Community College and transfer to a qualified four-year college or university in California with a minimum CCC grade point average (GPA) of 2.4. Students must be under age 28 as of December 31st of the award year in which the grant is first received. The age limit requirement is unique to the transfer grant program. This bill temporarily increases the age limit to 29.

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

According to the Senate Appropriations Committee:

- The California Student Aid Commission estimates one-time General Fund costs of $750,000 to hire contract engineers to change the Cal Grant awarding system necessary to provide the grants as a result of this bill.

- The Commission also estimates General Fund costs of about $50 million annually over a four-year period to provide an additional year of Cal Grant eligibility. This estimate assumes that on average, an additional 1,200 students would be awarded an entitlement award if a second year out of high school was allowed, totaling $12 million each year. This estimate also assumes that on average, an additional 675 students would be awarded a transfer entitlement award, totaling $6 million annually. Finally, this estimate assumes an annual cost of approximately $32 million to allow an average of 3,600 transfer entitlement recipients from the 2019-20 academic year to utilize the award for the 2021-22 and 2022-23 academic years. These figures also include students with the age increased to 29.

SUPPORT: (Verified 8/26/21)

California Association of Private School Organizations
California Chamber of Commerce
California Community Colleges Chancellor's Office

California Faculty Association
California State University, Office of the Chancellor
California Student Aid Commission
Hispanic Association of Colleges and Universities
San Jose-Evergreen Community College District
Villines Group, LLC

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
8/31/21 9:37:46

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

SENATE RULES COMMITTEE AB 1207
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1207
Author: Akilah Weber (D) and Luz Rivas (D)
Amended: 9/1/21 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 10-0, 6/30/21
AYES: Pan, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 6/3/21 - See last page for vote

SUBJECT: Pathways Through Pandemics Task Force

SOURCE: Author

DIGEST: This bill establishes the Pathways Through Pandemics Task Force in the California Health and Human Services Agency with the purpose of studying lessons learned from the COVID-19 pandemic and developing strategies to navigate future pandemics.

Senate Floor Amendments of 9/1/21:

1) Require a member of the California Conference of Local Health Officers, rather than the Health Officers Association of California, be a member of the Task Force.

2) Specify that the Task Force report findings to the Legislature's committees with jurisdiction over public health matters, such as the Senate Committee on Health and the Assembly Committee on Health.

3) Delete the requirement that the Department of Justice provide administrative, technical, and legal assistance to the Task Force.

ANALYSIS:

Existing law:

1) Establishes the California Health and Human Services Agency (CHHSA), consisting of the Departments of Aging, Community Services and Development, Developmental Services, Health Care Services, Managed Health Care, Public Health, Rehabilitation, Social Services, and State Hospitals; and, the Emergency Medical Services Authority, the Office of Health Information Integrity, the Office of Patient Advocate, the Office of Statewide Health Planning and Development, the Office of Systems Integration, the Office of Law Enforcement Support, the Office of the Surgeon General, and the State Council on Developmental Disabilities. [HSC §12800 and 12803]

2) Establishes the California Department of Public Health (CDPH), also within CHHSA, directed by a state Public Health Officer (PHO), to be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to public health and licensing of health facilities, as specified. Gives the PHO broad authority to detect, monitor, and prevent the spread of communicable disease. [HSC §131050 and §120130, et seq.]

This bill:

1) Establishes the Pathways Through Pandemics Task Force (Task Force) in CHHSA with the purpose of studying lessons learned from the COVID-19 pandemic and developing strategies to navigate future pandemics. Requires the Task Force to:

    a) Convene state departments, agencies, local governments, private sector entities, nonprofit entities, and others the Task Force deems appropriate, to engage in discussions on the lessons learned from the COVID-19 pandemic. Specifies what the discussions are to include, at a minimum;

    b) Develop and recommend best practices for an equitable response to future pandemics, as specified; and,

    c) Determine the impact of state laws on coordinating the response to the COVID-19 pandemic.

2) Requires the Task Force to report the findings to the Legislature on or before December 1, 2024, as specified.

3) Requires the Task Force chairperson to be the CHHSA Secretary, and for the Task Force to be comprised of nine members, specified as representatives from: the Office of Health Equity; the County Health Executives Association of California; the California Conference of Local Health Officers; and, three county representatives appointed by the chairperson.

4) Requires the Governor, the Speaker of the Assembly, and the Senate President pro Tempore to each appoint one representative from an ethnic minority who has previous experience with health equity.

5) Permits the Task Force to establish a subcommittee, as it deems necessary, to fulfill its functions. Permits a subcommittee or member of the Task Force to, if authorized by the Task Force, take any action that the Task Force may take.

6) Permits the Task Force to acquire, directly from the head of a state agency, available information that the Task Force considers useful in the discharge of its duties. Requires all state agencies to cooperate with the Task Force with respect to that information and to furnish all information requested, to the extent permitted by law. Requires the Task Force to keep confidential any information received from a state agency that is confidential or exempt from the California Public Records Act.

7) Permits the Task Force to hold hearings and sit and act at any time and location in the state and to request the attendance and testimony of witnesses. Requires members of Task Force to be entitled to $100 per diem and reimbursement for travel expenses. Permits the Task Force to procure supplies, services, and property by contract, as specified. Permits the Task Force to appoint and fix the compensation of personnel the Task Force deems necessary for the implementation of this bill.

8) Permits the Task Force to enter into contracts with state departments and agencies, federal departments and agencies, and private entities for the purpose of conducting research or surveys, preparing reports, and performing other activities necessary for the discharge of the duties of the Task Force.

9) Sunsets this bill on January 1, 2025.

Comments

1) *Author's statement.* According to the author, this bill makes a modest investment to ensure California has a roadmap for future public health crises. California needs a thorough review of the state's response so that we can address the social, economic, and health inequities that appeared over the last 15 months since the start of the COVID-19 pandemic.

2) *COVID-19 public health emergency.* On March 11, 2020, the novel Coronavirus (SARS-CoV-2), which causes the infection known as COVID-19, was declared a global pandemic and set in motion public health emergency declarations across the U.S. The COVID-19 outbreak was declared a nationwide public health emergency on January 31, 2020 (retroactive to January 27, 2020), and a national emergency on March 13, 2020. On March 4, 2020, Governor Newsom declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies, and help the state prepare for broader spread of COVID-19. The U.S. Department of Health and Human Services has indicated the federal public health emergency is likely to remain in place for the entirety of 2021. As of August 25, 2021, COVID19.CA.GOV reports 4,157,319 positive cases of COVID-19 and 64,931 deaths in California, with a disproportionate impact on communities of color. The data indicates that white people represent 21% of cases and 31% of deaths compared to non-white people who represent 70% of cases and 67% of deaths. Latino people represent 54% of cases and 46% of deaths, Black people represent 5% of cases and 7% of deaths, and Asian people represent 7% of cases and 12% of deaths.

3) *Health disparities.* According to a 2019 California Health Care Foundation report, Health Disparities by Race and Ethnicity: The California Landscape, all Californians should have access to the high-quality health care they need to lead a long and healthy life. Achieving this requires reducing disparities in health and the social determinants that affect historically excluded or marginalized groups. Disparities occur across many dimensions, including race/ethnicity, socioeconomic status, age, place of residence, gender, disability status, and sexual orientation. As the most racially diverse state in the country, California has a critical stake in addressing health disparities experienced by people of color. Key findings of the report include:

   a) Life expectancy at birth in California was 80.8 years. It was lowest for Blacks, at 75.1 years, and highest for Asians, at 86.3 years, an 11-year gap;

b) Latinos were more likely to report being in fair/poor health, to have incomes below the federal poverty level, and to be uninsured. About one in five Latinos did not have a usual source of care, and one in six Latinos reported difficulty finding a specialist;

c) Blacks had the highest rates of new prostate, colorectal, and lung cancer cases, and highest death rates for breast, colorectal, lung, and prostate cancer;

d) About one in five multiracial, Black, and white adults reported being told they have depression compared to about one in ten Asian adults; and,

e) Blacks fare worse on maternal/childbirth measures, with higher rates of low-risk, first-birth cesareans, preterm births, low-birthweight births, infant mortality, and maternal mortality.

4) *COVID-19 Health Equity Playbook for Communities (Playbook)*. According to CDPH, the Playbook is intended to support local communities in achieving health equity measures as part of California's Blueprint for a Safer Economy. According to the Playbook, California's COVID-19 data show that there are persistent racial and ethnic disparities in COVID-19 cases and deaths. Latino and Native Hawaiian/Pacific Islanders have a disproportionate number of cases relative to their respective population sizes in the state, and adults who are Black, Latino, or Native Hawaiian/Pacific Islander have disproportionately more deaths compared with their respective population sizes in the state. For instance, while Latinos make up 38.9% of the State's population, they comprise 61.1% of cases and 48.4% of all deaths. Similarly, while Blacks comprise 6% of the State's population, they comprise 4.3% of the cases and 7.7% of the deaths. Among adults aged 18-34, Blacks comprise only 4% of the cases but 13.5% of the deaths, while Native Hawaiian/Pacific Islanders comprise 0.5% of the cases but 1.7% of the deaths. Among adults aged 35-49, Latinos comprise 62.4% of the cases and 76.8% of the deaths. Furthermore, because of the lack of disaggregated race and ethnicity data collection and reporting, any disproportionate impact on certain sub-racial populations, specifically within the Asian and Native Hawaiian/Pacific Islander racial categories, (for example, the disparate impact on Filipinos), have been hidden and may be masked by their inclusion within the larger Asian category.

   The Playbook states that while COVID-19 is a health emergency, it is connected to housing, income, wealth disparities and other social determinants of health, and requires solutions that touch on all of these areas simultaneously. The three things that government should strongly consider include: addressing

both immediate and long-term inequities simultaneously; target investment to communities disproportionately impacted; and, responding quickly and simplifying processes whenever possible. Immediate COVID-19 response strategies include testing, contact tracing, isolation support and worker protections should be implemented in ways that would resolve barriers and focus these interventions where there is disproportionate impact of COVID-19 can help accelerate progress towards recovery.

In the long-term, lowering positivity rates and improving health outcomes for disproportionately impacted communities requires investments and strategies focused on structural inequities. These strategies include: expanding affordable, safe housing; robust investments in local health department infrastructure; climate resiliency; and expanded, safe employment opportunities. The Playbook points out that short-term actions can help support long term efforts and long-term efforts in turn can help to reduce future surges while also addressing the underlying root causes that are creating the inequities we experience today.

5) *Legislative Analyst's Office (LAO) Report.* The LAO released a report in February 2021, Key Public Health Issues to Consider in the COVID-19 Recovery, which examined CDPH's COVID-19 response as part of its review of the Governor's proposed 2021-22 Budget. The report found that the COVID-19 pandemic revealed a variety of problems, among them:

   a) Under-resourced state and local public health infrastructure;

   b) Outdated data collection, analysis, and reporting systems;

   c) Significant disparities in rates of infection and death across race and ethnic groups, and noted that these disparities appear to be related to a variety of factors including job type, housing, underlying health conditions, and access to health care;

   d) Coordination problems in public health governance structures;

   e) Health care delivery inadequacies, including workforce shortages, insufficient infection control at skilled nursing facilities, and inadequate stockpiles of personal protective equipment and other medical equipment and supplies; and,

   f) Challenges ramping up workforce and surge capacity in a short time frame.

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

According to the Senate Appropriations Committee:

- CHHSA estimates costs to implement this bill would be in the low millions of dollars (GF).
- Department of Justice estimates $727,000 in FY 2021-22; $1,187,000 in FY 2022-23; $1,187,000 in FY 2023-24; and $692,000 in FY 2024-25 (GF).
- CDPH estimates cost of participation in the Task Force would be minor and absorbable.
- Additional Task Force participants may incur costs.

SUPPORT: (Verified 9/2/21)

Health Access California
Public Health Advocates

OPPOSITION: (Verified 9/2/21)

California Department of Public Health
Department of Finance

ARGUMENTS IN SUPPORT: Public Health Advocates writes that while the pandemic has left no individual untouched, communities of color have borne the brunt on this public health crisis. At the start of the pandemic, testing was more readily available in affluent, white communities than in low-income, communities of color—yet people of color are more likely to become infected and die from the virus. Health Access California is in support of establishing an entity to analyze the lessons learned from the state's COVID-19 response and develop strategies for future public health crises.

ARGUMENTS IN OPPOSITION: CDPH writes that while they share the goal of studying lessons learned from the COVID-19 pandemic, this work is underway, and the 2021 Budget Act included millions of dollars towards this purpose. CDPH states that this bill is duplicative of these efforts and the resources to staff and manage the Task Force were not included in the 2021 Budget.

ASSEMBLY FLOOR: 78-0, 6/3/21
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, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Waldron

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
9/2/21 16:30:26

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

SENATE RULES COMMITTEE AB 1221
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1221
Author: Flora (R)
Amended: 9/1/21 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 7/13/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 75-0, 5/27/21 (Consent) - See last page for vote

SUBJECT: Consumer warranties: service contracts: cancellation: disclosures

SOURCE: Service Contract Industry Council

DIGEST: This bill amends the law applicable to service contracts to allow for such contracts to cover a class of products, rather than a single product, and to be offered on a periodic basis and continue until canceled, as provided.

Senate Floor Amendments of 9/1/21 amend the exemption to apply to "vehicle service contracts."

ANALYSIS:

Existing law:

1) Establishes the Electronic and Appliance Repair Dealer Registration Law (EAR Law). Therein is created the Bureau of Household Goods and Services (Bureau) located within the Department of Consumer Affairs (DCA) under the supervision and control of the Director of DCA. (Bus. & Prof. Code §§ 9800 et seq., 9810.)

2) Regulates service contracts that address the maintenance, replacement, or repair of consumer goods. (Bus. & Prof. Code §§ 9855-9855.9.)

3) Defines "service contract" for purposes of the EAR Law to mean a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance, replacement, or repair of consumer goods and may include provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, power surges, food spoilage, or accidental damage from handling. "Service contract" shall not include a contract in writing to maintain structural wiring associated with the delivery of cable, telephone, or other broadband communications services. "Service contract" shall not include a contract in which a consumer agrees to pay a provider of vision care services for a discount on optical products or contact lenses for a specified duration. (Bus. & Prof. Code § 9855.)

4) Defines "service contract seller" as a person who sells or offers to sell a service contract, with certain enumerated exceptions. (Bus. & Prof. Code § 9855 (c).)

5) Defines "service contract administrator" as a person responsible for compensating any party to a service contract for claims or repairs. A service contract administrator also performs activities like providing service contract sellers with forms, adjusting claims, and arranging required insurance for service contract sellers. (Bus. & Prof. Code § 9855(b).)

6) Defines "service contractor" as a service contract administrator or service contract seller. (Bus. & Prof. Code § 9855(e).)

7) Establishes the Song-Beverly Consumer Warranty Act, which sets forth standards for warranties that govern consumer goods, and outlines remedies available to purchasers. (Civ. Code § 1790 et seq.)

8) Requires, pursuant to the EAR Law, service contractors to comply with specified provisions of the Song-Beverly Consumer Warranty Act that govern service contracts, cancellation of those contracts, and refunds after cancellation. (Bus. & Prof. Code § 9855.5.)

9) Defines a "service contract" for purposes of the Song-Beverly Act as a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, excluding a policy of automobile insurance. (Civ. Code § 1791.)

10) Provides, in litigation pursuant to the Song-Beverly Act, for costs and expenses, including attorney's fees, to be awarded to a prevailing buyer. (Civ. Code § 1794(d).)

11) Sets forth cancellation and refund rights for motor vehicle, home appliance, and home electronic products. (Civ. Code § 1794.41.)

12) Provides for interest to be paid if a buyer cancels a service contract and does not receive a refund within 30 days. (Bus. & Prof. Code § 9855.6)

13) Regulates automatic renewal or continuous service offers to consumers in this state, including requirements to clearly present the terms of such offers, secure the affirmative consent of consumers, and to provide adequate notice and cancellation methods. (Bus. & Prof. Code § 17600 et seq.)

This bill:

1) Requires a service contract that covers a class of products to include a description of the class of products covered by the service contract that is sufficiently clear so the buyer is able to discern the products covered.

2) Authorizes a service contract to be offered on a month-to-month or other periodic basis and continue until canceled by the buyer or the service contractor, as provided, except for vehicle service contracts.

3) Provides that if the service contract continues until canceled by the buyer or service contractor, it shall do all of the following:

    a) Disclose to the buyer in a clear and conspicuous manner that the service contract shall continue until canceled by the buyer or service contractor and require the buyer's affirmative consent to this provision;
    b) Disclose to the buyer all alternatives that the seller offering the service contract offers, including any fixed-term service contracts or other service contract basis that does not continue until it is canceled;
    c) Provide, at a minimum, a toll-free number, email address, postal address, and, if one exists, internet website the buyer can use to cancel the service contract. Cancellation shall not require the use of more than one of these methods to be completed and shall be effective immediately upon receipt of the request for cancellation;
    d) If the service contract was entered into online, allow the buyer the option to cancel the service contract exclusively online, without engaging in any

unnecessary steps that obstruct or delay the buyer's ability to cancel the continuation of the service contract;
e) Provide for a refund to the buyer of any unearned amounts in accordance with Section 1794.41 and, for electronic and appliance repair dealers, Section 9855.6 of the Business and Professions Code.

4) Provides that the amount of the above refund, as well as any cancellation or administrative fees, shall be calculated based on the period, whether month to month or otherwise, for which payment is made and the amount of the payment for the period. A written notice of cancellation other than the notice as required above shall not be required to obtain a refund.

5) Defines "clear and conspicuous" and "clearly and conspicuously" to mean a larger type than the surrounding text, or in a contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. For an audio disclosure, "clear and conspicuous" and "clearly and conspicuously" means in a volume and cadence sufficient to be readily audible and understandable.

6) Defines "affirmative consent" to mean any freely given, specific, informed, and unambiguous indication of the consumer's wishes by which the consumer, or the consumer's legal guardian, a person who has power of attorney, or a person acting as a conservator for the consumer, including by a statement or by a clear affirmative action, signifies agreement to the continuous until canceled nature of the service contract. It does not include the following:

   a) Acceptance of a general or broad terms of use, or similar document, that contains descriptions of the coverages under the service contract along with other, unrelated information;
   b) Hovering over, muting, pausing, or closing a given piece of content; or
   c) Agreement obtained through the use of dark patterns.

7) Authorizes a service contractor to cancel a service contract offered on a month-to-month or other periodic basis, as specified.

8) Provides that the above changes are only applicable to a service contract entered into on or after January 1, 2022.

Background

Executive Summary

The Electronic and Appliance Repair Dealer Registration Law establishes the Bureau and authorizes it to regulate registered service contractors who sell service contracts for the repair of a variety of consumer products in California. Retailers are required to hold a valid registration in order to act as a service contract seller. Service contracts generally provide for the pre-paid repair or replacement of specified consumer products. The law also requires a service contractor to comply with the provisions of the Song-Beverly Consumer Warranty Act, relating to service contracts.

The Song-Beverly Consumer Warranty Act, provides consumer warranty protection to buyers of consumer goods, including motor vehicles, home appliances, and home electronic products. The act requires service contracts to include certain elements, including a clear description and identification of the covered product and a statement detailing the service contractor's obligations.

This bill authorizes service contracts to cover a class of products rather than a single product and allows for service contractors to sell automatically renewing service contracts pursuant to specific guidelines, excluding vehicle service contracts. (NOTE: For a more thorough analysis of this bill, please see the Senate Judiciary Committee analysis.)

Comments

Regulation of service contracts in California

Service contracts (otherwise known as extended warranties or maintenance agreements) cover a wide range of consumer products, including furniture, electronics, appliances, home healthcare products, jewelry, fitness equipment, and eye wear, among many others. In California, the products that are included in the definition of service contracts have expanded overtime on a case-by-case basis. In order to authorize a service contract to be sold with a product, legislative approval is necessary.

Expanding and clarifying the scope of service contracts in California

This bill makes two changes to the existing law detailed above. First, it explicitly provides for service contracts that cover a class of products, rather than simply a

single product. The Song-Beverly Act defines a service contract as a contract for "services relating to the maintenance or repair of *a consumer product*" and requires it to contain a "clear description and identification of *the covered product*." Because of this phrasing, it is unclear whether a service contract could cover more than one specific product.

The Service Contract Industry Council, the sponsor of this bill, explains the need for the provision:

> AB 1221 is focused on the outdated language in California's laws governing service contracts that requires the specific identification of each individual product covered by a service contract. Because of this language, a service contract is not able to cover a class of products but must issue one contract per covered product. Such a scenario is not helpful to consumers and is inconsistent with the treatment of the service contract industry in the rest of the country.

This bill amends the provision of the act to add "if the service contract covers a single product," to the requirement that the covered product is clearly described, and then explicitly provides that if a service contract covers a class of products, the class of products covered must be described in a manner sufficiently clear so that the buyer can discern what is covered.

The second change involves the period for which service contracts can run. The existing definition of service contract specifies that the contract applies "over a fixed period of time or for a specified duration," and a service contract is required to indicate "[the service contract's] duration measured by elapsed time or an objective measure of use." This language can be read to suggest that it is impermissible for a service contractor to offer a contract that automatically renews for additional fixed terms.

This bill explicitly authorizes a service contract to be "offered on a month-to-month or other periodic basis and continue until canceled by the buyer or the service contractor." The bill provides specific consumer protections for continuous service contracts. However, the bill specifically excludes from this provision vehicle service contracts. Such contracts are directly regulated by the California Department of Insurance and vehicle contracts are explicitly restricted from being offered on this periodic or continuous basis. (Ins. Code § 12800 et seq.)

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

According to the Senate Appropriations Committee:

- 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: Unknown workload cost pressures to enforce the provisions of this bill. (Special fund**)

* Trial Court Trust Fund
** Unfair Competition Law Fund

SUPPORT: (Verified 8/26/21)

Service Contract Industry Council (source)

OPPOSITION: (Verified 9/3/21)

Consumer Federation of California

ARGUMENTS IN SUPPORT: According to the Service Contract Industry Council, "AB 1221 provides clarity as to the permissibility of month-to-month and/or continuous until cancelled service contracts in California. Many consumers purchase service contracts in connection with services provided on a month-to-month or continuous until cancelled basis. For example, cell phones are often purchased through a monthly pay option and it is convenient for a consumer to be able to include service contract coverage on their cell phone and have the cost for that coverage billed on the consumer's monthly cell phone bill along with the wireless minutes and cell phone purchase price. While these programs have been offered in California for years under existing state law, the industry would like to see more clarity in the service contract laws providing clear authorization of these service contract programs under California law."

ARGUMENTS IN OPPOSITION: The Consumer Federation of California writes, "Many consumers have been unfairly taken advantage of by companies offering free trials or monthly services that automatically renew without the consumers knowledge. These consumers often do not notice that they are being

charged until it is too late, once their bank accounts have been repeatedly charged or even completely drained. Given these existing issues, CFC opposes extending these same kinds of auto-renewal contracts into the service contract space by allowing contracts to continue until cancelled by the consumer. Existing law's definition of service contract specifies that these contracts apply 'over a fixed period of time or for a specified duration,' ensuring that consumers are protected from endless charges for services that they do not want or no longer need. AB 1221 would upend these existing protections and allow these nefarious practices to invade yet another industry and hurt more consumers. While AB 1221 does specify that companies must disclose to consumers if a service contract will continue until cancelled, the bill's definition of 'clear and conspicuous' disclosure is significantly lacking and will harm consumers."

ASSEMBLY FLOOR: 75-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood
NO VOTE RECORDED: Maienschein, Mullin, Rendon

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
9/3/21 15:24:33

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

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

THIRD READING

Bill No: AB 1238
Author: Ting (D) and Friedman (D), et al.
Amended: 7/6/21 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 9-4, 6/29/21
AYES: Gonzalez, Allen, Becker, Cortese, Dodd, McGuire, Newman, Skinner, Wieckowski
NOES: Bates, Dahle, Melendez, Wilk
NO VOTE RECORDED: Archuleta, Min, Rubio, Umberg

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 58-16, 6/2/21 - See last page for vote

SUBJECT: Pedestrian access

SOURCE: Author

DIGEST: This bill repeals provisions of law prohibiting pedestrians from entering a roadway and specifies that pedestrians shall not be subject to a fine or criminal penalty for crossing or entering a roadway when no cars are present.

ANALYSIS:

Existing law:

1) Requires pedestrians to yield the right-of-way to all vehicles on a roadway so as to not constitute an immediate hazard.

2) Requires drivers of a vehicle to yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

3) Prohibits a pedestrian from suddenly leaving a curb or other place of safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard.

4) Prohibits a pedestrian from unnecessarily stopping or delaying traffic while in a marked or unmarked crosswalk.

5) Requires pedestrians to not enter a roadway when they are facing a steady circular yellow or a yellow arrow signal.

6) Requires pedestrians to follow the instructions of a traffic signal.

7) Requires pedestrians to walk on the left hand edge of a roadway when outside of a business or residence district.

8) Authorizes local authorities to adopt ordinances prohibiting pedestrians from crossing roadways at locations other than crosswalks.

9) Provides that any of the above violations are an infraction. Fines, inclusive of surcharges and fees, are $196.

This bill:

1) Removes the prohibition against pedestrians entering a roadway when facing a circular yellow or yellow arrow signal until January 1, 2029.

2) Removes the requirement that pedestrians obey traffic signals until January 1, 2029.

3) Defines “immediate hazard” as existing if the approaching vehicle is so near or is approaching so fast that a reasonably careful person would realize that there is a danger of collision.

4) Removes the prohibition against pedestrians crossing mid-block until January 1, 2029.

5) Provides that a pedestrian shall not be subject to a fine or criminal penalty for crossing or entering a roadway when no cars are present until January 1, 2029.

6) Removes the requirement that pedestrians walk close to the edge of the roadway until January 1, 2029.

7) Removes the authority of local governments to prohibit pedestrians from crossing at other than crosswalks until January 1, 2029.

8) Requires the California Highway Patrol to annually report on pedestrian injuries and fatalities beginning January 1, 2023 and ending January 1, 2029.

Comments

1) *Purpose*. According to the author, this bill was introduced to protect vulnerable pedestrians against arbitrary, racially biased pre-textual policing, burdensome fines and fines, and unnecessary, and potentially lethal, interactions with law enforcement.

2) *Biased Policing?* Supporters note an analysis[1], using data collected under California's Racial and Identity Profiling Act, of the 15 largest law enforcement departments. The data shows that over 250,000 non-traffic citations were issued in 2019. These are low-level violations of state laws and municipal codes that are punishable by fines. Supporters contend that the analysis shows substantial racial disparities in enforcement, and that these types of citations are not commonly given in white, wealthy neighborhoods. They argue that this demonstrates ongoing harassment of minority communities.

   The analysis does indeed show substantial racial disparities in the issuance of non-traffic citations in the largest cities and counties in California. But the analysis does not show that jaywalking is much of a problem. The vast majority of the citations seem to be related to homelessness and alcohol use. Less than 5% are for jaywalking.

3) *Steep Fine*. The penalty for pedestrian violations such as jaywalking is $196, which is a $25 base fine plus an additional $96 in penalties and surcharges and $75 in fees.

4) *Jaywalking Around the World.* In the United States, jaywalking is typically a crime, either a misdemeanor or an infraction. Earlier this year Virginia enacted a new law doing away with jaywalking as a crime. Nevada recently passed legislation reducing the penalty for jaywalking from a misdemeanor to a civil penalty, or fine. Looking abroad, jaywalking is not a crime in the U.K. and the Netherlands.

[1] "Cited for Being in Plain Sight: How California Polices Being Black, Brown, and Unhoused in Public" by Lawyers' Committee for Civil Rights of the San Francisco Bay Area; September 2020.

5) *Pedestrian Safety*. The California Office of Traffic Safety reports that California has the highest pedestrian death rate in the nation, nearly 25% higher than the national average. The Federal Highway Administration reports that 75% of pedestrian fatalities occur at non-intersection locations. The California Highway Patrol (CHP) notes that in 2019 there were 1021 pedestrians killed by vehicles statewide, similar but slightly higher than prior years, of which 667 were the result of the pedestrian crossing against traffic controls or safety laws. The CHP is concerned that the bill will cause confusion for the public, increase pedestrian related crashes, and reduce overall traffic safety.

   Pedestrian death rates seem to be higher in poorer neighborhoods. An analysis from Governing[2] shows that pedestrian death rates were 230% higher in 2008-2012 in areas with poverty rates of greater than 30% than where poverty rates were less than 5%. Similarly, pedestrian death rates were more than double in low income areas compared to high income areas. Some of this may be attributable to more walking in lower income areas. However, this may also be due to a relative lack of pedestrian infrastructure. An analysis by Bridging the Gap[3], found that 89% of high income areas had sidewalks compared to 49% of low income areas, and that 13% of high income areas had marked crosswalks compared to 7% in low income areas.

6) *Recommendations of others.* Many safety agencies offer guides for pedestrian safety. The National Highway and Traffic Safety Administration (NHTSA) has 10 walking safety tips on its website which include:

   a) Be predictable. Follow the rules of the road and obey signs and signals.
   b) Walk on sidewalks whenever they are available.
   c) If there is no sidewalk, walk facing traffic and as far from traffic as possible.
   d) Whenever possible, cross streets at crosswalks or intersections, where drivers expect pedestrians.

   While California's Office of Traffic Safety does not have its own pedestrian safety program, it provides grants to local organization who do, such as the San Diego Police Department. Their program, called Circulate San Diego, provided smart walking tips substantially similar to the NHTSA tips above.

[2] "Pedestrians Dying at Disproportionate Rates in America's Poorer Neighborhoods"; by Mike Maciag; Governing.com; July 23, 2014
[3] "Income Disparities in Street Features that Encourage Walking"; Bridging the Gap; March 2012.

While there seems to be a consensus on best pedestrian safety practices, it doesn't necessarily follow that the best practices should be turned into laws with accompanying enforcement mechanisms. If people voluntarily follow the best practices without the threat of a fine, is the law necessary? Moreover, are jaywalking laws fair if lower income areas have fewer ways to walk without jaywalking?

7) *Balancing Justice and Safety*. There seems to be ample evidence that minorities are disproportionately subject to enforcement of minor transgressions like jaywalking. Minimizing opportunities for discriminatory enforcement seems like a worthy pursuit. Yet it is also true that California leads the nation in pedestrian fatalities and that substantial resources are being devoted to reducing those fatalities through programs like Vision Zero. Will the solution proposed by this bill to minimize opportunities for discriminatory enforcement unintentionally increase California's already high pedestrian fatality rate? Parties disagree, but hard evidence either way is lacking.

8) *Opposition*. Opponents note that most pedestrian fatalities occur when crossing outside of designated intersections. They believe that by legalizing jaywalking this bill will increase pedestrian fatalities and injuries.

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

According to the Senate Appropriations Committee:

- Unknown reductions in state and local penalty assessment revenues (General Fund, various special funds, local funds). To the extent the bill resulted in a reduction of 4,000 "jaywalking" violations statewide, there would be a reduction of $568,000 in state funds, including $160,000 that would have been deposited into the Trial Court Trust Fund. (see background and staff comments)

- The CHP indicates that any costs to collect data and prepare the annual report would be minor and absorbable. (Motor Vehicle Account)

SUPPORT: (Verified 8/27/21)

ACLU California Action
Active San Gabriel Valley
Albany Strollers & Rollers
Alliance for Community Transit - Los Angeles
America Walks

Asian Pacific Islander Forward Movement
Ban Sup (Single Use Plastic)
Bay Area Legal Aid
Berkeley City Council District 7, Office of Councilmember Rigel Robinson
Bicycle Kitchen/la Bici-cocina
Bike Bakersfield
Bike Ventura
Bikesd
California Bicycle Coalition
California Immigrant Policy Center
California Interfaith Power & Light
California Pan-ethnic Health Network
California Walks
California Yimby
Center for Community Action & Environmental Justice
Changelab Solutions
Circulate San Diego
City Heights Community Development Corporation
City of Berkeley
City of Emeryville
Clergy and Laity United for Economic Justice
Climate Action Campaign
Climate Resolve
Coalition for Humane Immigrant Rights
Coalition for Sustainable Transportation
Communities United for Restorative Youth Justice
Community Legal Services in East Palo Alto
Courage California
Day One
Disability Rights California
Dolores Huerta Foundation
East Bay Community Law Center
East Yard Communities for Environmental Justice
Ella Baker Center for Human Rights
Greenfield Walking Group
Inland Empire Biking Alliance
Inner City Law Center
Innercity Struggle
Institute for Transportation & Development Policy
Investing in Place

Jobs to Move America
Justice LA
LA Forward
Labor Community Strategy Center
Lawyers' Committee for Civil Rights - San Francisco
Leadership Counsel for Justice & Accountability
Legal Link
Legal Services of Northern California
Los Angeles County
Los Angeles County Bicycle Coalition
Los Angeles Neighborhood Land Trust
Los Angeles Walks
Marin County Bicycle Coalition
Nacto
Natural Resources Defense Council
Pasadena Complete Streets Coalition
People for Mobility Justice
Place It!
Planning and Conservation League
Policylink
Prevention Institute
Public Counsel
Rails-to-Trails Conservancy
Ride: in Living Color
Sacramento Area Bicycle Advocates
Safe Routes Partnership
Safe Routes to School National Partnership
San Diego County Bicycle Coalition
San Francisco Bicycle Coalition
San Francisco Marin Medical Society
Santa Ana Active Streets
Santa Barbara Bicycle Coalition
Santa Monica Safe Streets Alliance
Santa Monica Spoke
Shasta Living Streets
Silicon Valley Bicycle Coalition
Spur
Streets are For Everyone
Streets for All
Sunrise Movement - Los Angeles

Sunrise Movement LA
Sustainable Claremont
The Greenlining Institute
Throop Unitarian Universalist Church, Pasadena
Transform
Trust for Public Land
Venice Community Housing Corporation
Vision Zero Network
Walk Bike Berkeley
Walk Long Beach
Walk Sacramento
Walk San Francisco
Western Center on Law & Poverty
Women Organizing Resources, Knowledge and Services
Young Women's Freedom Center

OPPOSITION: (Verified 8/27/21)

California Association of Highway Patrolmen
California Coalition for Children's Safety and Health
California State Sheriffs' Association
Peace Officers Research Association of California

ASSEMBLY FLOOR: 58-16, 6/2/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Chen, Choi, Megan Dahle, Davies, Flora, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Arambula, Bigelow, Muratsuchi, Ramos, Rodriguez

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
8/28/21 11:19:41

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

SENATE RULES COMMITTEE AB 1243
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1243
Author: Blanca Rubio (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 7/13/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Skinner, Stern, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 76-0, 5/24/21 - See last page for vote

SUBJECT: Protective orders: elder and dependent adults

SOURCE: Bet Tzedek Legal Services
Justice in Aging
Public Law Center

DIGEST: This bill provides that restraining orders for elder or dependent adults may include certain remedies related to financial abuse or isolation, as specified.

ANALYSIS:

Existing law:

1) Establishes the Elder Abuse and Dependent Adult Civil Protection Act (Act). (Welf. & Inst. Code § 15600 et seq.)[1] Recognizes that elders and dependent adults may be subjected to abuse, neglect, or abandonment and that California has a responsibility to protect those persons. (§ 15600(a).) States that the purposes of the Act are to do the following:

[1] All further statutory references are to the Welfare and Institutions Code unless otherwise stated.

a) Require health practitioners, care custodians, clergy members, and employees of county adult protective services agencies and local law enforcement agencies to report known or suspected cases of abuse of elders and dependent adults and to encourage community members in general to make such reports;
b) Collect information on the numbers of abuse victims, circumstances surrounding the act of abuse, and other data that will aid the state in establishing adequate services to aid all victims of abuse in a timely, compassionate manner; and
c) Provide for protection under the law for all those persons who report suspected cases of abuse, provided that the report is not made with malicious intent. (§ 15601.)

2) Provides that acts of abuse include physical abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering; and financial abuse. (Welf. & Inst. Code § 15610.07.)

3) Defines "isolation" as any of the following:

a) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
b) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
c) False imprisonment, as defined.
d) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors. (§ 15610.43)

4) Provides that an elder or dependent adult who has suffered abuse may seek a protective order. Specifies that a petition for a protective order may be brought on behalf of the individual by a conservator, trustee, attorney-in-fact, guardian ad litem, or other person legally authorized to seek relief. Additionally

provides that a county adult protective services agency may bring such an action in specified circumstances. (§ 15657.03(a).)

5) Provides that the protective order may be issued to:

   a) Enjoin a party from specified abuse, stalking, harassment and other related conduct, as provided;
   b) Exclude a party from the person's residence or dwelling, as specified; or
   c) Enjoin a party from specified behavior that the court determines necessary to effectuate orders described above. (*Id.* at (b)(4).)

6) Provides that the court may issue, upon notice and a hearing, any of the orders described above, which may last up to five years and may be renewed for either five years or permanently, as provided.

This bill:

1) Finds and declares:

   a) It is the intent of the Legislature to prevent domestic violence, including elder and dependent adult abuse, and particularly to preserve the physical and mental health of vulnerable Californians. During the COVID-19 pandemic, one of the biggest threats to vulnerable adults' mental health, and sometimes physical health, has been isolation. The typical protections against isolation that might exist, including community or senior centers, libraries, support groups, banks, and even some delivery services, either are not available or are not operated in the same way as they were before the pandemic.
   b) One way perpetrators of domestic violence, including elder and dependent adult abuse, are able to continue with their abuse is by preventing trusted friends and family members from seeing or contacting a vulnerable adult. As the vulnerable adult is isolated, it becomes more and more difficult for others to identify signs of abuse. The isolation also allows the perpetrator to potentially take over finances and hide any indications that they are doing so. The pandemic and resulting stay-at-home orders, as well as older adults' vulnerability to COVID-19, have amplified the need for additional protections, as well as creative ways to ensure older adults remain connected to their communities. A court order is not required for an elder or dependent adult to engage in visitation from anyone from whom the elder or dependent adult desires visitation.

c) It is extremely important that the health and well-being of a vulnerable adult be front and center in any decision affecting them.
d) Changes made by the bill are intended to ensure that vulnerable adults are able to protect and preserve their physical and mental health, by making certain that these vulnerable adults are able to maintain important familial and social connections that they desire, and that a perpetrator does not cut off those relationships in an attempt to take advantage of the vulnerable adult.

2) Provides that a protective order may be issued, after notice and a hearing only, to make a finding that specific debts were incurred as a result of financial abuse of the elder or dependent adult by the respondent, as specified. Provides that a finding that a particular debt was incurred as a result of financial abuse of the elder or dependent adult does not entitle the petitioner to any remedies other than those actually set forth in the protective order statute. Provides that such a finding does not affect the priority of any lien or other security interest.

3) Provides that if the petition alleges abuse of an elder or dependent adult in the form of isolation, a petition for an elder abuse restraining order may be brought by an "interested party," which is defined as an individual with a personal, preexisting relationship with the elder or dependent adult. A preexisting relationship may be shown by a description of past involvement with the elder or dependent adult, time spent together, and any other proof that the individual spent time with the elder or dependent adult.

4) Provides that a protective order may be issued, after notice and a hearing only, to enjoin a party from abusing an elder or dependent adult by isolating them. Provides that an order may be issued to restrain the respondent for the purpose of preventing recurrence of isolation if the court finds by a preponderance of the evidence that the following requirements are met:

a) The respondent's past act or acts of isolation repeatedly prevented contact with the interested party.
b) The elder or dependent adult expressly desires contact with the interested party. Requires a court to use all means at its disposal to determine whether the elder or dependent adult desires contact with the person and has the capacity to consent to that contact.
c) The respondent's isolation of the elder or dependent adult from the interested party was not in response to an actual or threatened abuse of the

elder or dependent adult by the interested party or the elder or dependent adult's desire not to have contact with the interested party.

5) Provides that the order may specify the actions to be enjoined, including enjoining the respondent from preventing the interested party from in-person or remote online visits with the elder or dependent adult, including telephone and online contact.

6) Provides that an order enjoining isolation under this section is not required for an elder or dependent adult to visit with anyone with whom the elder or dependent adult desires visitation.

7) Specifies circumstances in which these provisions do not apply because the elder or dependent adult resides in certain facilities for which other actions are may be taken under appropriate state or federal laws.

8) Provides that a protective order based solely on isolation does not trigger the requirements under Family Code section 6380 to transmit specified information to the California Law Enforcement Telecommunications System, which is a data interchange system managed by the California Department of Justice to compile background information for law enforcement purposes.

9) Requires the Judicial Council, on or before February 1, 2023, to revise or promulgate forms as necessary to implement changes made by the bill.

10) Becomes operative January 1, 2023.

Comments

The California Legislature, recognizing the need for special protection for California's vulnerable elder and dependent adult population, has enacted significant criminal and civil protections for elders and dependent adults. In 1983, the Legislature established enhanced criminal penalties against individuals who perpetrate crimes, including great bodily harm, infliction of pain, endangerment, and false imprisonment, against dependent adults. In 1986, the Legislature extended these protections to elders.

In 1992, the Legislature enacted SB 679 (Mello, Chapter 774, Statutes of 1991), which established the Elder Abuse and Dependent Adult Civil Protection Act (Act). The Act provides enhanced civil remedies to protect elders and dependent

adults who are victims of physical abuse, neglect, or financial abuse. The Act requires adult protective services agencies, local long-term care ombudsman programs, and local law enforcement agencies to receive referrals or complaints from public or private agencies, from any mandated reporter, or from any other source having reasonable cause to know that the welfare of an elder or dependent adult is endangered. (§ 15600 et seq.) The Act also requires these entities to take any actions necessary to protect the elder or dependent adult, correct the situation, and ensure the individual's safety. (§15600(i).)

Among the actions that may be taken to protect an elder or dependent adult who is an alleged victim of abuse is a petition to a court to issue a restraining order against the alleged abuser. Existing law provides that a petition for a protective order may be brought on behalf of the individual by any person legally authorized to seek relief or by a county adult protective services agency in certain circumstances. (§ 15657.03(a).) For these purposes, "abuse" includes physical abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering; and financial abuse. (§ 15610.07.)

This bill enables (1) courts, in issuing a restraining order for abuse of an elder or dependent adult to declare a specific debt was incurred as a result of financial abuse, and (2) an interested party, as defined, to seek an order restraining a party from abusing the elder or dependent adult by isolating them, as provided.

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

According to the Senate Appropriations Committee:

- The Department of Justice reports one-time workload costs of $66,000 to update the California Restraining and Protective Order System to reflect the changes made by this measure. (General Fund)

- Unknown, potentially-significant workload cost pressures to the courts to adjudicate charges brought against individuals who are alleged to have violated a protective order by isolating an elder or dependent adult. 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*)

*Trial Court Trust Fund

SUPPORT: (Verified 8/27/21)

Bet Tzedek Legal Services (co-source)
Justice in Aging (co-source)
Public Law Center (co-source)
California Advocates for Nursing Home Reform
California Commission on Aging
California Elder Justice Coalition
California Long-term Care Ombudsman Association
California Low-income Consumer Coalition
Jewish Public Affairs Committee
National Association of Social Workers, California Chapter
Public Counsel
Wise & Healthy Aging

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: The author writes:

Among the many adjustments to everyday life caused by COVID-19, visitation to vulnerable groups including elderly individuals has been limited to prevent/minimize exposure to the virus. For many families caring for relatives in community this meant little to no visitation outside of primary caregivers. With so many choosing to keep their elderly loved ones at home to protect them from exposure and the increased COVID-19 death rates the state has seen in residential care facilities, it is incumbent on the state to ensure sheltering in place is the safest option by providing legal recourse that centers the rights of the elderly individual.

AB 1243 helps prevent isolation of vulnerable Californians by allowing family members or other persons with a pre-existing relationship (as defined in the bill language) to petition the court through the existing elder and dependent adult abuse restraining order process for orders enjoining the isolation and allowing contact with the vulnerable adult as

long as the elder or dependent adult wants that contact. This legislation specifically focuses on preventing isolation of elders and dependent adults living in the community with family or caregivers.

AB 1243 also provides an additional elder and dependent adult abuse restraining order remedy for financial abuse by extending AB 2517 (Gloria 2020) to allow judges issuing elder and dependent adult abuse restraining orders to make similar findings that specific debts are the result of coerced debt. This will give the protected party an additional tool to use when facing collection activity by creditors and collectors. They can use the coerced debt findings to dispute debts with creditors, collectors, and/or credit reporting agencies, which will protect their future income and facilitate their economic recovery.

ASSEMBLY FLOOR: 76-0, 5/24/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Flora

Prepared by: Josh Tosney / JUD. / (916) 651-4113
8/31/21 9:47:52

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

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

THIRD READING

Bill No: AB 1259
Author: Chiu (D), et al.
Introduced: 2/19/21
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/22/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 53-19, 5/24/21 - See last page for vote

SUBJECT: Criminal procedure: motion to vacate

SOURCE: ACLU of California
California Attorneys for Criminal Justice

DIGEST: This bill provides that a person who is no longer in criminal custody may file a motion to vacate a conviction or sentence if the conviction or sentence is legally invalid due to prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a conviction or sentence.

ANALYSIS:

Existing law:

1) Requires a court before accepting a plea to advise a criminal defendant as follows: "If you are not a citizen, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of

naturalization pursuant to the laws of the United States." (Pen. Code, § 1016.5 (a).)

2) Permits a defendant to make a motion to withdraw their plea if the court fails to admonish him or her about the possible immigration consequences of entering the plea. (Pen. Code, § 1016.5 (a).)

3) Permits a defendant to move to withdraw a plea at any time before judgment, or within six months after an order granting probation when the entry of judgment is suspended, or if the defendant appeared without counsel at the time of the plea. (Pen. Code, § 1018.)

4) Allows every person unlawfully imprisoned or restrained of their liberty to prosecute a writ of habeas corpus to inquire into the cause of their restraint. (Pen. Code, § 1473, subd. (a).)

5) Authorizes a person no longer unlawfully imprisoned or restrained to prosecute a motion to vacate the judgment based on newly discovered evidence, as specified, if the motion is brought within one year of the discovery. (Pen. Code, § 1473.6.)

6) Authorizes a person no longer imprisoned or restrained to prosecute a motion to vacate a conviction or sentence for either of the following reasons:
   a) The conviction or sentence is legally invalid due to prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a plea of guilty or nolo contendere; or
   b) Newly discovered evidence of actual innocence exists that requires vacation of the conviction or sentence as a matter of law or in the interests of justice. (Pen. Code, § 1473.7.)

This bill allows a person to make a motion to vacate any conviction or sentence because it was invalid due to prejudicial error damaging the moving party's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of the conviction.

Background

Padilla v. Kentucky

In *Padilla v. Kentucky* (2010) 559 U.S. 356, the United States Supreme court held that the Sixth Amendment requires defense counsel to provide affirmative and

competent advice to noncitizen defendants regarding the potential immigration consequences of their criminal cases. (Id. At 360.) Specifically, the United States Supreme Court held that defense counsel is constitutionally deficient if there is a failure to advise a noncitizen client entering a plea to a criminal offense of the risk of deportation. "Deportation as a consequence of a criminal conviction has become an integral part of the penalty for a criminal conviction for noncitizens, sometimes the most important part." (Id. at 364.) The court's holding is not limited to only affirmative mis-advice of the consequence because that would encourage defense counsel to remain silent on a matter of great importance to a noncitizen client, and that would be inconsistent with counsel's duty to provide advice to a client considering the advantages and disadvantages of a plea agreement. (Id. at 370-71.)

Expansion of existing relief

AB 813 (Gonzalez, Chapter 739, Statutes of 2016) and AB 2867 (Gonzalez Fletcher, Chapter 825, Statutes of 2018) created existing law which allows a person who entered a plea to seek to have that plea vacated because they did not understand the immigration consequences of that plea and sets forth the procedures for making such a motion..

This bill expands the category of persons able to seek to vacate a conviction or sentence as legally invalid, whatever way that person was convicted or sentence, including a person who was found guilty after a trial.

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

According to the Senate Appropriations Committee, unknown, potentially-significant workload cost pressures to the courts to adjudicate motions to vacate convictions and sentences resulting after trial. 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*)

*Trial Court Trust Fund

SUPPORT: (Verified 8/26/21)

ACLU of California (co-source)
California Attorneys for Criminal Justice (co-source)

Alliance for Boys and Men of Color
Alliance San Diego
American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties
Asian Americans Advancing Justice - California
California Coalition for Women Prisoners
California for Safety and Justice
California Immigrant Policy Center
California Public Defenders Association
California Rural Legal Assistance Foundation, Inc.
Communities United for Restorative Youth Justice
Community Legal Services in East Palo Alto
Courage California
Drug Policy Alliance
Ella Baker Center for Human Rights
Essie Justice Group
Immigrant Defense Advocates
Initiate Justice
Long Beach Immigrant Rights Coalition
Los Angeles Center for Law and Justice
Los Angeles County District Attorney's Office
National Association of Social Workers, California Chapter
Norcal Resist
Open Immigration Legal Services
Prosecutors Alliance of California
Re:store Justice
Rubicon Programs
San Francisco District Attorney's Office
San Francisco Public Defender
Santa Clara County District Attorney's Office
Secure Justice
Showing Up for Racial Justice San Diego
Silicon Valley De-bug
Southeast Asia Resource Action Center
We the People - San Diego
Yolo County District Attorney

OPPOSITION: (Verified 8/26/21)

None received

ARGUMENTS IN SUPPORT: The Prosecutors Alliance of California supports this bill stating:

> Penal Code § 1473.7 provides access to the courts for people who have completed their sentence to challenge the legal validity of old convictions, including when the person convicted failed to meaningfully understand or knowingly accept the immigration consequences of pleading to a specific crime that could later become grounds for detention or deportation. If a court grants a motion to vacate based on this defect, the person is eligible to enter a new plea, or, on the prosecutor's petition, have the charges dropped altogether. This process has been a lifesaving tool for thousands of people with California convictions.
>
> AB 1259 extends Penal Code § 1473.7 to immigrant community members who failed to meaningfully understand the immigration consequences of taking their criminal case to trial and suffered a conviction. While trial convictions only account for two percent of all convictions, AB 1259 ensures that all immigrants have the opportunity to present evidence of legal invalidity to a court and keep more California families whole by preventing deportations based on faulty legal grounds

ASSEMBLY FLOOR: 53-19, 5/24/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Nazarian, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Chen, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Irwin, Kiley, Lackey, Mathis, Nguyen, Patterson, Petrie-Norris, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Bigelow, Flora, Frazier, Gray, Mayes, Muratsuchi

Prepared by: Mary Kennedy / PUB. S. /
8/28/21 11:19:45

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

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

THIRD READING

Bill No: AB 1261
Author: Burke (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 6-0, 6/28/21
AYES: Allen, Bates, Dahle, Skinner, Stern, Wieckowski
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 76-0, 6/2/21 - See last page for vote

SUBJECT: State Air Resources Board: greenhouse gas emissions: incentive programs

SOURCE: Author

DIGEST: This bill requires the California Air Resources Board (ARB), contingent upon an appropriation by the Legislature, to contract with either the University of California or the California State University to implement a number of recommendations as suggested by the State Auditor, which would improve ARB's ability to isolate greenhouse gas (GHG) emissions from specific programs, help identify the effectiveness of specific programs, and more accurately estimate GHG emission reductions.

ANALYSIS:

Existing law:

1) Establishes ARB as the air pollution control agency in California and requires ARB, among other things, to control emissions from a wide array of mobile sources and coordinate, encourage, and review the efforts of all levels of

government as they affect air quality. (Health and Safety Code (HSC) §39500 et seq.)

2) Requires, under the California Global Warming Solutions Act of 2006 (also known as AB 32), ARB to (a) determine the 1990 statewide greenhouse gas (GHG) emissions level and approve a statewide GHG emissions limit that is equivalent to that level to be achieved by 2020; (b) ensure that statewide GHG emissions are reduced to at least 40% below the 1990 level by December 31, 2030 (i.e., SB 32); and (c) adopt regulations, until December 31, 2030, that utilize market-based compliance mechanisms to reduce GHG emissions (i.e., the cap-and-trade program) and achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. (HSC §38500 et seq.)

3) Establishes the Greenhouse Gas Reduction Fund (GGRF) in the State Treasury, requires all moneys, except for fines and penalties, collected pursuant to a market-based mechanism be deposited in the fund. (Government Code §16428.8)

4) Requires, under SB 535 (De Leon, Chapter 830, Statutes of 2012), a minimum of 25% of GGRF moneys to be spent on projects benefiting disadvantaged communities (DACs), as defined.

5) Requires, under AB 1550 (Gomez, Chapter 69, Statutes of 2016), a minimum of 25% of GGRF moneys to be spent on projects located within and benefiting DACs and an additional minimum of 10% of GGRF moneys be spent on projects that benefit low-income households or are within, and benefit low-income communities.

This bill:

1) Defines “incentive program” for this section to mean an incentive program administered by ARB that was included in the California State Auditor audit report number 2020-114. The 10 incentive programs reviewed in the audit are: Advanced Technology Freight Demonstrations, Agricultural Worker Vanpools, Car-sharing pilots, Clean Vehicle Rebate Project, Clean Cars 4 All, Financing Assistance for Lower-Income Consumers, Funding Agricultural Replacement Measures for Emissions Reduction, Hybrid and Zero-Emission Truck and Bus Voucher Incentive Program, Zero-Emission Drayage Truck Pilot, and Zero-Emission Truck and Bus Pilot Projects.

2) Requires ARB to, contingent upon an appropriation by the Legislature and within three years of receiving said appropriation, do the following:
   a) Establish a process to formally identify any overlap among any incentive programs that share the same objective;
   b) Develop a process to define, collect, and evaluate data on the behavioral changes that result from each of its incentive programs;
   c) Develop a process to define, collect, and evaluate data that will translate to metrics demonstrating the socioeconomic benefits that result from each of its incentive programs; and
   d) Enter into a contract with either the University of California (UC) or California State University (CSU) to collect the information necessary to better isolate GHG emission reductions and socioeconomic benefits ascribed to its incentive programs, and to use these findings to inform ARB's changes made in response to the audit.

3) Uses the results of the above processes to refine GHG emission estimates, and to make funding and design recommendations based on the efficacy and costs of its incentive programs in providing socioeconomic benefits.

Background

1) *2018 Legislative Analyst's Office Report*. As required by AB 398 (E. Garcia, 2017), the Legislative Analyst's Office (LAO) reports annually on the economic impacts and benefits of California's statutory GHG emission goals. In 2018, the LAO published a report focusing on California's transportation policies. Notably, since the statutory requirement is to report on GHG emission goals, that was the primary pollution type considered, though the report also touched on other impacts of the state's emission reduction policies.

   The LAO report found that (1) the overall economic impacts and benefits of the state's transportation GHG policies were unclear, (2) the large number of policies targeting transportation emissions created challenges for assessing interactions, net effects, and coordination, (3) policies were relatively costly ways to reduce GHGs, but could be valuable in instances of promoting infrastructure, technological innovation, or co-pollutant reductions, and (4) the effect of California's transportation emission policies on other jurisdictions was unclear.

   This report was cited repeatedly at the 2020 hearing of the Joint Legislative Audit Committee (JLAC) as a justification for calling upon the State Auditor to assess ARB's transportation and climate programs. ARB rebutted that the

statutory direction for the report to focus on GHGs and not criteria pollutants or air toxics meant it did not accurately assess the full value of the considered programs. Regardless of this assertion, JLAC approved the audit request.

2) *2020 State Auditor Report Number 2020-114.* On February 23, 2021, the State Auditor released the report of its audit of ARB's incentive programs. According to the State Auditor,

> Our assessment focused on transportation programs intended to reduce (GHG) emissions, and the following report details the audit's findings and conclusions. In general, we determined that ARB must do more to help the State work strategically toward its climate change goals.
>
> ARB has not done enough to measure the GHG emissions reductions its individual transportation programs achieve. Specifically, ARB has not collected or evaluated sufficient data to allow it to determine whether or how its incentive programs, which pay consumers in exchange for purchasing low- and zero-emission vehicles, reduce GHG emissions beyond what ARB's regulations already require… Given the ambitious nature of the State's climate change goals and the short time frame to meet them, California is in need of more reliable tools with which to make funding decisions.
>
> Additionally, ARB has not consistently collected or analyzed data to determine whether some of its programs provide the socioeconomic benefits that ARB has identified for those programs, such as maximizing participants' economic opportunities. Because these programs may cost significantly more than other incentive programs from the perspective of reducing GHG emissions, ARB must do more to measure and demonstrate specific benefits to disadvantaged communities and low-income communities and households that the programs intend to serve.

3) *ARB's response.* Upon the audit being completed, ARB provided the following response: "CARB has already started implementing a number of steps to address these recommendations and will be taking future steps as described in the attachment consistent with direction from the Legislature… I also want to note that implementing a number of the recommendations will likely come with an assessment that additional staffing and resources will be needed to fulfill CARB's ability to deliver them."

The full response extensively addressed the audit's central recommendations. Excerpts follow that pertain to the specific provisions of AB 1261.

a) *Program overlap.* "CARB will undertake a process to better document the interaction between incentive and regulatory programs and how to refine methods to better account for emission reductions from incentives going forward.

"We would like to clarify that, for purposes of tracking progress in meeting health protective federally mandated clean air laws, tools such as EMFAC (which CARB uses to assess emissions levels from specific mobile sources) account for the complementary nature of policies that may impact those sources and avoid overestimating emissions benefits."

b) *Behavioral changes.* "CARB currently has work underway that will help with this effort through surveys of participants in projects such as the Clean Vehicle Rebate Project (CVRP), Clean Cars 4 All, Car Sharing, Financing Assistance, and Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP) among others.

"CARB has also contracted with UC Berkeley to develop an evaluation model/process for CARB to use as a new standard for assessing the effectiveness, sustainability and outcomes of CARB's clean mobility equity pilot projects for disadvantaged communities and low-income communities. Researchers will identify both community-preferred and research-preferred metrics and evaluation methodologies that can be consistently applied across CARB's clean transportation equity projects."

Socioeconomic benefits. "CARB will clarify which Low Carbon Transportation incentive programs provide socioeconomic benefits, including but not limited to public health benefits, green economic opportunities, and greater access to zero emission mobility. CARB's Low Carbon Transportation equity projects authorized under Health and Safety Code Section 44258.4 (4)(A) are the projects which primarily focus on providing socioeconomic benefits.

"CARB's clean transportation equity projects currently incorporate surveys, focus groups, vehicle telematics, and other means of documenting overall project effectiveness, the results of which are used to adaptively manage the projects, address users' needs, and increase community participation, while also informing future project planning. CARB will

evaluate the need to modify future grant solicitations to accommodate relevant additional metrics."

Comments

1) *Purpose of this bill.* According to the author, "… AB 1261 simply codifies the auditor's recommendations by requiring CARB, three years upon an appropriation by the Legislature, to establish specified processes to assist the state in achieving its greenhouse gas emissions reduction goals, including a process to identify any overlap among its incentive programs that share the same objectives and a process to define, collect and evaluate data on the behavioral changes and socioeconomic benefits that result from each of its incentive programs.

   "CARB would be required to use this information to refine greenhouse gas emissions estimates in its annual reports to the Legislature, its funding plans, and any long-term planning documents or reports.

   "Additionally, AB 1261 would require CARB to develop a process to define, collect and evaluate data that will translate to metrics demonstrating the socioeconomic benefits that result from each of its incentive programs, and, beginning July 1, 2023, to use this data to make funding and design recommendations in its annual reports to the Legislature and funding plans.

   "California has set some of the most ambitious climate goals in the nation. The Legislature should have the most accurate data available to make more informed budget and policy decisions related to transportation sector emissions - so that we can appropriately address mobile source air quality concerns throughout the state."

2) *Top priority recommendations on select programs*. The requirements of AB 1261 are only a portion of what was recommended by the Auditor and committed to by ARB. In this bill, the Legislature has an opportunity to highlight priority findings from the audit, and provide direction to ARB in adopting changes.

   It should be noted that complying with AB 1261 should only be part of ARB's response to the audit. Assembly Appropriation Committee amendments limited the scope of the bill to 10 specific incentive programs. While this does not preclude ARB from assessing and potentially reworking any of their other programs in implementing the audit's findings, AB 1261 does not require them

to do so.

The contemplated increases in data collection and analysis will, not surprisingly, require considerably more state resources to conduct than ARB's present operations. However, there is reason to believe that these increased costs could be exceeded by the benefits in the long run of having more efficiently-run, less redundant programs that deliver more accurate estimations of emission reductions and cost effectiveness.

3) *Clearer goals make for clearer evaluations.* Defining "success" in transportation and climate policy is complicated. A given policy intervention can easily have impacts on GHG emissions, criteria air pollutants, air toxics, equity, innovation, behavioral changes, and socioeconomic development, even if the stated intent is only to improve one of those. While ARB has many programs that do reduce GHG emissions, not all of those were established with GHG emission reduction as their primary goal. In order to evaluate different programs and compare their outcomes, efficiency, or cost-effectiveness, a holistic assessment is necessary.

   Directing—and providing additional resources to— ARB to perform more holistic assessments of their policies will help the state achieve its climate goals. Importantly, it will allow for greater transparency and accountability of ARB to the Legislature. Nearly as important as ARB's commitment to provide more complete data to the Legislature, however, is what the Legislature does with that data. Being clear about what is expected out of a program will help all parties share a definition of success, which will in turn help determine when a program is or is not working as intended.

   Implementing the recommendations in the audit, and particularly the ones included in AB 1261, will be an important step towards providing these valuable insights. While AB 1261 does not encompass all the changes ARB must implement to respond to the audit, it is a reasonable first step.

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

ARB estimates one-time costs of $2.5 million in 2022-23 and ongoing costs of $1.2 million annually (GGRF) to implement this bill.

SUPPORT: (Verified 8/26/21)

African American Farmers of California
Beaumont Chamber of Commerce
Big Bear Chamber of Commerce
Black Business Association
California African American Chamber of Commerce
California Association of Black Pastors
Central Valley Latino Mayors and Elected Officials Coalition
Chino Valley Chamber of Commerce
Coastal Energy Alliance
CoLAB Ventura County
Corona Chamber of Commerce
Fontana 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 Business Council
Harbor Association of Industry & Commerce
Hemet San Jacinto Valley Chamber of Commerce
Highland Area Chamber of Commerce
Inland Empire Economic Partnership
Latin Business Association
Long Beach Area Chamber of Commerce
Menifee Valley Chamber of Commerce
Moreno Valley Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
Nisei Farmers League
Perris Valley Chamber of Commerce
Pomona Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Redlands Chamber of Commerce
San Diego Urban Sustainability Coalition
Santa Barbara County Taxpayers Association
Si Se Puede
South Bay Association of Chambers of Commerce
Temecula Valley Chamber of Commerce
Upland Chamber of Commerce
Valley Industry & Commerce Association
Ventura County Coalition of Labor, Agriculture and Business
Wilmington Chamber of Commerce

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 76-0, 6/2/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, 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, 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, Lorena Gonzalez, Jones-Sawyer

Prepared by: Eric Walters / E.Q. / (916) 651-4108
8/31/21 9:47:53

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

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

THIRD READING

Bill No: AB 1273
Author: Rodriguez (D)
Amended: 9/1/21 in Senate
Vote: 21

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

SENATE HEALTH COMMITTEE: 9-0, 6/23/21
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Melendez, Grove

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/13/21 (Consent) - See last page for vote

SUBJECT: Interagency Advisory Committee on Apprenticeship: the Director of Consumer Affairs and the State Public Health Officer

SOURCE: Author

DIGEST: This bill (1) expands membership of the Interagency Advisory Committee on Apprenticeship to include the State Public Health Officer and the Director of Consumer Affairs; and (2) expands the use of the "earn and learn" training model by preventing these two government entities from prohibiting its use for personnel training or accreditation of programs and requiring them to use licensing or certification standards that authorize it.

Senate Floor Amendments of 9/1/21 (1) clarify that the bill does not require the Department of Consumer Affairs or the State Department of Public Health to establish a mandate that an accrediting entity must provide earn and learn programs; (2) add double jointing language to address chaptering out issues; and (3) specify that the bill's provisions become operative on January 1, 2024.

ANALYSIS:

Existing law:

1) Provides a framework for promoting and developing apprenticeship training through the California Apprenticeship Council and the Division of Apprenticeship Standards (DAS) within the Department of Industrial Relations. DAS enforces apprenticeship standards for, among other things, working conditions, classroom instruction and skills required for state certification in an apprentice occupation. (Labor Code §3070-3098)

2) Creates, within the DAS, the Interagency Advisory Committee on Apprenticeship (IACA), which must provide advice and guidance to the Administrator of Apprenticeship and Chief of the DAS on the development and administration of standards governing preapprenticeship, certification, and on-the-job training and retraining programs outside the building and construction trades and firefighters. (L.C. §3071.5)

3) Provides that the IACA must have the following designees as ex officio members:

   a) The Secretary of Labor and Workforce Development.

   b) The Executive Director of the California Workforce Development Board.

   c) The Director of Industrial Relations.

   d) The Executive Director of the Employment Training Panel, Superintendent of Public Instruction.

   e) The Chancellor of the California Community Colleges.

   f) The Director of Rehabilitation.

   g) The Executive Director of the State Council on Developmental Disabilities.

4) Establishes the California Workforce Development Board as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system and requires the board (in consultation with the DAS) to identify "earn and learn" job training opportunities in high-wage, high-demand jobs. (Unemployment Insurance Code §14010 et seq).

5) Defines "earn and learn" job training programs to include, but not be limited to, programs that do either of the following:

   a) Combine applied learning in a workplace setting with compensation allowing workers/students to gain experience and secure a wage as they develop skills and competencies in careers for which they are preparing.

   b) Bring together classroom instruction with on-the-job training to combine both formal instruction and actual paid work experience.

   (Unemployment Insurance Code §14005(q))

6) Establishes within the Business, Consumer Services, and Housing Agency the Department of Consumer Affairs (DCA), which is under the control of the Director of DCA, and is composed of various boards that license and regulate various professions and vocations. Existing law, the Consumer Affairs Act, establishes the powers and duties of the director. (Business and Professions Code §100-472.5)

7) Establishes within the California Health and Human Services Agency the State Department of Public Health (DPH), which is under the control of the State Public Health Officer, with powers and responsibilities relating to public health, the licensing and certification of health facilities, and certain other functions. (Health and Safety Code §131000-131320)

This bill:

1) Makes the State Public Health Officer and the Director of DCA ex officio members of the IACA.

2) Enacts, beginning January 1, 2024, the following provisions regarding the DCA:

   a) Prohibits the DCA or board from approving an accrediting entity that prohibits "earn and learn" programs for training in a profession licensed or certified by the board.

   b) Requires boards of the DCA to use licensing or certification standards that authorize the use of earn and learn training.

   c) Specifies that the DCA and its boards are not required to establish a mandate specifying that an accrediting entity must provide earn and learn programs for training in a profession licensed or certified by a board.

3) Enacts, beginning January 1, 2024, the following provisions regarding DPH:

   a) Prohibits the DPH, in the licensing and certification of health professions, from prohibiting "earn and learn" programs for training of personnel.

   b) Requires the DPH to use licensing or certification standards that authorize the use of earn and learn training.

   c) Specifies that the DPH is not required to establish a mandate specifying that an accrediting entity must provide earn and learn programs for training in a profession licensed or certified by the department.

4) Makes related findings and declarations specifying the importance of removing barriers to ensure California's diverse workforce have equal access to educational opportunities that result in family sustaining careers in all industry and public health sectors.

5) Includes double jointing language to address chaptering out issues between this bill and AB 565 (Lackey).

Background

Health Professions and "Earn and Learn" Training Programs. According to the U.S. Department of Labor's Bureau of Labor Statistics, employment in healthcare occupations is projected to grow 15 percent from 2019 to 2029, much faster than the average for all occupations, adding about 2.4 million new jobs. This projected growth is mainly due to an aging population, leading to greater demand for healthcare services. The median annual wage for healthcare practitioners and technical occupations (such as registered nurses, physicians and surgeons, and dental hygienists) was $69,870 in May 2020, which was higher than the median $41,950 annual wage for all occupations.

In 2016, AB 2105 (Rodriguez, Chapter 410) directed the DCA to engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in allied health professions and include identified barriers in a report. The stakeholder process concluded by January 1, 2020, and the DCA issued a summary report identifying a number of findings and recommendations. The report, *Barriers and Recommendations to Facilitating Earn and Learn Training Programs in Allied Health Professions*, was released in July 2020. Among other things, the report found the following key findings and recommendations:

1) *Prohibitions on payment for trainings by program accrediting entities.*

2) Lack of demographic and workforce data.

3) Registered apprenticeship requirements are not aligned with allied health training programs.

4) Lack of knowledge about registered apprenticeship for the California health care industry.

5) *Lack of coordinated effort among relevant state agencies.*

6) Lack of available data on the economic benefit of earn and learn job training programs in health care in California.

Comments

Need for this bill? This bill addresses two of the findings and recommendations noted above from the DCA working group on allied health professions. This bill adds the State Public Health Officer and the Director of DCA as ex officio members of IACA in order to help address the need for better coordination among relevant state agencies. This bill also addresses the prohibition on payment for trainings by prohibiting the DCA as well as DPH from prohibiting or approving an accrediting program that prohibits "earn and learn" programs for training in a profession licensed or certified by the board or for personnel training purposes.

According to the author, "Requiring students to obtain clinical training without compensation prevents many students from entering the allied health care workforce. Encouraging earn and learn opportunities for more diverse populations will lead to better cultural competency and a more diverse allied healthcare field."

Related/Prior Legislation

AB 1019 (Frazier, Chapter 164, Statutes of 2019) added the Director of Rehabilitation and the State Council on Developmental Disabilities to the IACA and required the IACA to create a subcommittee to address apprenticeship for the disabled community.

AB 2105 (Rodriguez, Chapter 410, Statutes of 2016) directed the DCA to engage in a stakeholder process to update policies and remove barriers to facilitate the development of earn and learn training programs in allied health professions.

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

SUPPORT: (Verified 9/1/21)

California Labor Federation, AFL-CIO
Department of Consumer Affairs-Board of Vocational Nursing and Psychiatric Technicians
Jewish Vocational Service (JVS, San Francisco Bay Area)
SEIU California

OPPOSITION: (Verified 9/1/21)

American Association of Medical Dosimetrists
American Society of Radiologic Technologists
California Society for Respiratory Care
California Society of Radiologic Technologists
Foothill College Radiologic Technology Program
Foothill-De Anza Community College District
Fresno City College Radiologic Technology Program
Joint Review Committee on Education in Radiologic Technology
Joint Review Committee on Educational Programs in Nuclear Medicine Technology
Loma Linda University Department of Radiation Technology
Medical Dosimetrist Certification Board
Merced College
Modern Technology School
Nuclear Medicine Technology Certification Board
Respiratory Care Board of California, Department of Consumer Affairs
Society of Nuclear Medicine & Molecular Imaging

ARGUMENTS IN SUPPORT: According to SEIU California, "Promotion of 'earn and learn' job training models can be a critical part of the workforce strategy related to healthcare reform as it is seen as a way to train health care workers and address some of the workforce issues, including recruitment and retention, training a quality workforce, and improving quality of patient care. Additionally, employers want to recruit qualified candidates but are not finding candidates who are adequately prepared. Earn and learn programs provide the flexibility students need to acquire the knowledge and skills and earn a living at the same time. Moreover, the programs teach students the work ethic and communication skills needed to make a successful transition to the workforce. Five general earn and learn models are in use today: internships, cooperative education, apprenticeships, federal work-study, and practicum (guided by faculty such as student teaching).

"Healthcare workers have reported significant burnout due to COVID-19, exasperating California's healthcare workforce shortage. It is critical to ensure we have a workforce to meet our access to care needs, and eliminating barriers to earn and learn programs successfully provide a bridge that connects workers to their chosen profession."

ARGUMENTS IN OPPOSITION: According to the California Society for Respiratory Care, "Respiratory care education programs in California are required by Business & Professions Code 3740 to be accredited by the Commission on Accreditation for Respiratory Care (CoARC). Importantly, CoARC sets rigorous standards for respiratory care education that respiratory care programs must meet in order to operate in California. This accreditation protects students and the public by ensuring students are gaining a quality education that enables them to pass the licensure test and operate safely as fully skilled Respiratory Therapists in California. Managing patients' breathing can have lethal consequences, this makes the rigorous standards of CoARC accreditation that much more important. CoARC prohibits earn and learn programs. CoARC accreditation would be out of compliance with AB 1273 should the bill become law as written."

Additional opposition comes from the Respiratory Care Board of California (Board), within the DCA, which states, "the (Board) has reviewed AB 1273 and has respectfully taken an oppose unless amended position, as the bill directly conflicts with respiratory care practitioner education requirements as established within Business and Professions Code (B&PC) section 3740."

According to the Board, pursuant to CoARC's Standards, students are prohibited from being compensated for clinical training. They write, "A CoARC Interpretive Guideline for Accreditation Standard 5.09 further states, 'Programs must include a service work statement in program materials available to both students and clinical supervisors, which specifies that program students must not be substituted for paid staff while they are on clinical rotations, and that they cannot complete clinical coursework while functioning as part-time employees at any healthcare site. This does not prohibit a paid/unpaid internship in states where this is allowed, but is intended to ensure that students are not used as 'back-ups' in the absence of paid staff during clinical rotations, that students who opt to reinforce competencies and skill sets as 'interns' are adequately supervised and do not receive educational credits for this experience, and that they receive no educational credits while functioning as a paid employee at any healthcare facility.'"

ASSEMBLY FLOOR: 75-0, 5/13/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes, Gallagher, Medina

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
9/2/21 16:30:30

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

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

THIRD READING

Bill No: AB 1283
Author: Stone (D)
Amended: 9/1/21 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/8/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE JUDICIARY COMMITTEE: 11-0, 7/6/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/13/21 (Consent) - See last page for vote

SUBJECT: Resource families: hearings

SOURCE: California Department of Social Services

DIGEST: This bill facilitates, further, implementation of the Continuum of Care Reform (CCR) of the foster care system as it relates to criminal background checks for tribally approved homes (TAH), the appeals process for resource family applicants, and temporary exclusions from community care facilities.

Senate Floor Amendments of 9/1/21 provide double-jointing language resolving the conflict arising from AB 1283 and SB 354 (Skinner, 2021) addressing the same code sections.

ANALYSIS:

Existing law:

1) Establishes the Indian Child Welfare Act (ICWA) *(25 U.S.C. § 1901)* to protect the best interest of Indian children by promoting the stability and security of Indian tribes and families by establishing minimum standards for:

a) Removal of Indian children from their families;

b) Placement of such children in foster or adoptive homes that reflect the unique values of Indian culture; and

c) Assistance to Indian tribes in the operation of child and family service programs. *(Id. at § 1902)*

2) Provides that a child may become a dependent of the juvenile court and be removed from their parents or guardian on the basis of abuse or neglect. *(WIC 300)*

3) Establishes the resource family approval process, which requires, among other things, a criminal record clearance for each applicant and adult residing in the home. *(WIC16519.5(d))* Prohibits the Department of Social Services (DSS) from issuing a criminal record clearance to a person arrested for certain violent felonies against the individual unless the DSS investigates the incident and secures admissible evidence as to whether the person poses a risk to the health and safety of the child. *(HSC 1522(e)(2))* Generally prohibits an application for foster care or adoption from being granted if a person in the home has a criminal conviction, but allows for exemptions for certain types of crimes while categorically prohibiting exemptions for others. *(Id. at (g))*

4) Requires the Department of Justice (DOJ) to maintain a state summary of criminal history information to be furnished to specified parties in the course of their duties, including county child welfare agency and tribal personnel in connection with approval of licensing of foster care or adoptive homes. *(PEN 111505(a), (b)(18)-(20))* When a summary of criminal history is required for specified employment, licensing, or certification purposes, including foster care or adoption, requires specified information related to certain convictions and arrests to be provided. *(Id. at (m))*

5) Enables a tribal agency to request from the DOJ state and federal level summary criminal history information for the purpose of approving a trial home for the placement of an Indian child into foster or adoptive care. *(PEN 11105.08(a))* The DOJ must provide a state and federal level response pursuant to section 111505(m), as described above. *(Id. at (d); WIC 10553.12)*

6) Requires the DSS, county adoption agency, or licensed adoption agency to require each person who files an application for adoption to be fingerprinted and secure from an appropriate law enforcement agency any criminal record of the person to determine whether they have ever been convicted of a crime other

than a minor traffic violation, as specified. *(FAM 8712(a))* The record must be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child must be included in a report to the court. *(Id. at (b))* Final approval for an adoptive placement in any home with an adult who has been convicted of an offense for which an exemption cannot be granted pursuant to a criminal records check process under Health and Safety Code section 1522(g)(2)(A).

7) Establishes procedures governing the resource family approval process for any individual or family that has successfully met both the home environment assessment standards and the permanency assessment criteria, as specified, necessary for providing care for a child placed by a public or private child placement agency by court order, or voluntarily placed by a parent or legal guardian. *(WIC 16519.5(a), (c), (d))*

8) Establishes procedures governing an appeal of a denial or rescission of approval for a criminal record exemption. *(WIC 16519.5(d))* If the party does not file a timely appeal, provides that the action is final and subject to dismissal, unless there is good cause, defined to mean a substantial and compelling reason beyond the party's control, considering the length of delay, the diligence of the party filing the appeal, and the potential prejudice to the other party. *(Id. at (e))*

9) Provides that upon a finding of noncompliance, the DSS may require a foster family agency to deny a resource family application, rescind the approval of a resource family, or take other action deemed necessary for the protection of a child who is or who may be placed with the resource family, according to prescribed procedures. *(WIC 16519.5(i))*

This bill:

1) Requires that a DOJ provided summary of criminal history information be provided pursuant to the process described under Family Code Section 8712, instead of Penal Code Section 11105(m), aligning this provision with the requirements applicable to the resource family approval process.

2) Clarifies the provisions governing when a county's action to deny or rescind a criminal records becomes final with respect to the appeal, not the underlying action. Expands these provisions to include when the subject of the action withdraws the appeal or fails to appear at the hearing without good cause. Specifies that this does not apply to administrative proceedings against a resource family, applicant, or individual that violates other specified provisions.

3) Requires the department to define in written directives or regulations when there is "good cause" for failure to appear at a hearing on a criminal background exemption.

4) Provides that a temporary exclusion of an individual following a county's denial of an application for resource family approval, rescission of approval, or denial or rescission of a criminal record exemption, may only be imposed as set forth in the written directives or regulations adopted by the department, as specified.

5) Replaces the provisions governing the DSS's authority to require a foster family agency to deny a resource family application based on a finding of noncompliance with a provision that instead allows a county and the DSS to coordinate the filing of actions, file consolidated pleadings, or file a motion to consolidate multiple actions if a matter involves both a county and department action.

6) Makes other conforming and technical changes.

Comments

According to the author, "AB 1283 is this year's legislation to update the Continuum of Care Reform process that began with the passage and signing of AB 403 in 2015. As written, this measure would clarify the effect of a no-show at a resource family approval appeal hearing, conform language around temporary exclusion statutes, remove unnecessary references from the welfare and institutions code, and streamline background checks for Tribally Approved Homes."

The author goes onto note that "this bill seeks to improve the implementation of CCR by making simple, technical changes to the code that clarify language and RFA procedures for child welfare practitioners. In doing so, the bill helps ensure that California is properly supporting resource families and providing foster youth with the greatest chance to grow up in permanent and supportive homes."

Continuum of Care Reform Effort. 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 was designed to reduce the number of foster children placed in congregate care settings by improving the assessments of children and families and

establishing a child and family team for each child in foster care. AB 403 (Stone, Chapter 773, Statutes of 2015) was the first of six DSS-sponsored CCR bills and provided the statutory and policy framework to ensure services and supports provided to the child or youth and their family are tailored toward the ultimate goal of maintaining a stable permanent family. This is the seventh CCR bill and it would adopt changes to further facilitate implementation of CCR.

Resource Family Approval Program (RFA). A resource family is a caregiver who provides out-of-home care for children in foster care. A resource family may be related to the child, have a familiar or mentoring relationship or have no previous relationship to the child. The RFA program created a single process for the approval of foster family homes, relative or non-relative extended family member (NREFM) homes for foster care, and to approve families for legal guardianship or adoption. RFA was designed to be a unified, family friendly, child-centered process for the approval of home based placements. The RFA process allows the reviewing agency (DSS or the county) to make considerations related to an applicant's existing relationship with a child or children when a relative or NREFM applies to be a resource family for a specific child or children.

Background Check Process for RFA. The RFA process includes a criminal record background check, which is the main subject of this bill. All resource families, regardless of whether they are relatives of the child, are subject to the same criminal record clearance requirements. Existing law provides for a process by which a resource family applicant shall be fingerprinted and have their criminal record background check completed. The reviewing agency, whether DSS or the county, must then review the criminal history and determine whether the person has a history of convictions other than minor traffic violations and some minor marijuana convictions. If such a history is found, the reviewing agency must determine whether the convictions are for a crime that is non-exemptible or exemptible. (NOTE: For more information on this process see the Senate Human Services Committee analysis or the Senate Judiciary Committee analysis.)

Child Welfare Services (CWS). The CWS system is an essential component of the state's safety net. Social workers in each county who receive reports of abuse or neglect, investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child's well-being and avoid court involvement, or a child is removed and placed into foster care. In 2019, the state's child welfare agencies received 477,614 reports of abuse or neglect. Of these, 69,652 reports contained allegations that were substantiated and 28,646 children were removed from their homes and placed into foster care via the CWS

system. As of October 1, 2020, there were 60,045 children in California's CWS system.

Indian Child Welfare Act. In the 1970s, a multiyear Congressional investigation found that Indian children were being removed from their homes at significantly high rates, and that such removal was often unwarranted. This research found that 25 to 35 percent of all Indian children were being removed from their families and that of those removed 85 percent were placed outside in non-Indian foster homes. This investigation found that four main factors were contributing to the high rate of removal and unnecessary termination of parental rights: state child welfare standards for assessing Indian families lacked cultural competence; due-process violations against Indian children and their parents that existed on a system-wide basis; economic incentives that favored the removal of Indian children from their families and communities; and, social conditions existing in Indian country.

In response to this investigation, ICWA was enacted by Congress in 1978 to address states "often fail[ing] to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families," and the resulting unwarranted removal of Indian children. Congress's goal through the enactment of ICWA was to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families." In an effort to meet this goal, ICWA established minimum federal standards for state courts to meet any time an Indian child is removed from their family or custodial home and placed in foster care or adoptive homes. This results in a presumption that it is in the best interest of the Indian child to retain tribal ties.

ICWA authorized states to establish higher standards that go above the federal baseline. In 2006, California adopted a state-level implementation of ICWA through the passage of SB 678 (Ducheny, Chapter 838, Statutes of 2006). SB 687 established Cal-ICWA, revising and recasting portions of state code that address Indian child custody proceedings and codifying into state law various provisions of ICWA, the Bureau of Indian Affairs Guidelines for State courts, and state Rules of Court. As a result, in any child custody proceeding in which the court knows or has reason to know that an Indian child is involved, the child's tribe must be notified of the proceeding and of their right to intervene in the proceeding.

Some changes made through CCR legislation have included changes to address needs specific to Indian children. For example AB 2944 (Mark Stone, Chapter 104, Statutes of 2020) made changes to address an appellate court decision that might have negatively impacted counties efforts to conduct further inquiry when there is a "reason to believe" a Indian child is involved in the proceeding and thus

potentially result in children not properly being identified as Indian children. Other changes were not uniformly applied to tribal child welfare processes, in part because those processes are intended to be unique to tribal child welfare cases, as intended by ICWA and Cal-ICWA.

One area in which processes created under CCR were not uniformly applied to Indian children's child welfare cases is the RFA process. RFA combined aspects of the adoption and guardianship processes with aspects of the foster family approval process, thus resulting in resource family applicants being subject to adoptions-level background checks, as is described in Family Code Section 8712. This change was implemented so that a family would only need to undergo one background check regardless of whether their case ended up being a short-term foster care placement or transitioning to adoption or guardianship. This prevents a family who has an approved foster placement from later being denied the ability to adopt that child due to an element in the families' background that had not been addressed when the child was placed with the family. This new RFA process was not applied to TAHs, meaning current law still requires background checks for TAHs to be conducted pursuant to Penal Code Section 11105(m), which refers to the traditional background checks used for foster family homes prior to the adoption of RFA. As a result, a TAH that wishes to adopt or enter a guardianship for a foster child in their care is required to undergo subsequent fingerprinting and an additional more thorough background check. This bill proposes to clarify that TAHs are required to undergo background checks as described in Family Code Section 8712, aligning this part of the TAH process with RFA so that a TAH has the same streamlined background check and adoption process as resource families.

Related/Prior Legislation

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.

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

SUPPORT: (Verified 9/1/21)

California Department of Social Services (source)

OPPOSITION: (Verified 9/1/21)

None received

ASSEMBLY FLOOR: 75-0, 5/13/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cervantes, Gallagher, Medina

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
9/2/21 16:30:27

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

SENATE RULES COMMITTEE AB 1294
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1294
Author: Quirk (D), et al.
Amended: 8/26/21 in Senate
Vote: 27 - Urgency

SENATE EDUCATION COMMITTEE: 7-0, 6/23/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

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: Childcare: individualized county childcare subsidy plans

SOURCE: County of Alameda
County of Santa Clara
Santa Clara County Office of Education

DIGEST: This bill, an urgency measure, extends the authority for the individualized county child care pilot program for the County of Santa Clara to continue by one year, from July 1, 2022, to July 1, 2023.

ANALYSIS:

Existing law:

1) Requires families to meet certain criteria in order to be eligible for federal and state subsidized child development services, including that a family must be either a current aid recipient, income eligible, homeless, or one whose children

are recipients of protective services or have been identified as being abused, or neglected. (Education Code § 8263)

2) Defines "income eligible," for purposes of establishing initial income eligibility for subsidized child care services to mean that a family's adjusted monthly income is at or below 85% of the state median income (SMI), adjusted for family size. Existing law defines "ongoing income eligible" to mean that a family's adjusted monthly income is at or below 85% of the SMI, adjusted for family size. (EC § 8263.1)

3) Authorizes an individualized county child care subsidy plan for each of the City and County of San Francisco and San Mateo County to allow for greater flexibility in subsidized child care programs to ensure that subsidies received by these counties are used to address local needs, conditions, and priorities of working families in their respective communities. (EC § 8335-8335.6, § 8347-8347.5)

4) Establishes the individualized county child care subsidy plan pilot projects in the Counties of Alameda, Contra Costa, Fresno, Marin, Monterey, San Benito, San Diego, Santa Clara, Santa Cruz, Solano, and Sonoma. (EC § 8273; Welfare & Institutions Code § 10340)

5) Sunsets the pilot projects for the County of Santa Clara on July 1, 2022, and for the Counties of Alameda, Contra Costa, Fresno, Marin, Monterey, San Benito, San Diego, Santa Cruz, Solano, and Sonoma on July 1, 2023. (EC § 8281; WIC § 10348)

This bill, an urgency measure, extends the authority for the individualized county child care pilot program for the County of Santa Clara to continue by one year, from July 1, 2022, to July 1, 2023. Specifically, this bill:

1) Extends the authority for the individualized county child care pilot program for the County of Santa Clara to continue by one year, from July 1, 2022, to July 1, 2023.

2) Requires the Department of Social Services (DSS) the California Department of Education (CDE) to review the existing individualized county child care pilot programs and provide a report to the appropriate policy and fiscal committees by June 30, 2022.

3) Requires the report to include recommendations on what flexibilities currently available to pilot programs should be adopted statewide, and what flexibilities are no longer justified given statewide policy changes.

4) Requires DSS and CDE to consider administrative burden for both the department and counties in the recommendations.

5) Provides that this bill is an urgency statute necessary in order for DSS and CDE to have the maximum amount of time to provide the required report, and in order for the County of Santa Clara to have the maximum amount of time to adjust to the extended operation of this program.

Comments

Need for the bill. According to the author, "Existing law does not reflect the fiscal reality of living in the County of Santa Clara. The cost of living in this county is well beyond the state median level, resulting in reduced access to quality childcare. In recognition of the unintended consequences of living in a high-cost county, which have been intensified by the impact of the COVID-19 pandemic, this pilot program is necessary to provide children and families in the County of Santa Clara proper and continued equitable access to childcare, and support the county's economic recovery through individualized county childcare subsidy plans.

"For the FY 2019, the Santa Clara county pilot served 10,228 children. More than 50% of the children served under this pilot came from families at or under 50% of state median income."

What are county pilots and how do they help? Individualized county child care plans ensure that child care subsidies received by the specified counties are used to address local needs, conditions, and priorities of working families in their respective communities. Participating counties do not receive additional funding for the flexibilities allowed; rather, these counties are able to retain and use more of their funding for subsidized child care, which would otherwise revert to the state's general fund.

Participating counties are authorized to have local plans to address their child care needs in ways that supersede state law in specific areas, such as:

1) Eligibility criteria (allowing eligibility for over-income families).

2) Fees (allowing lower family fees).

3) Reimbursement rates (higher rates and adjustment factors).

4) Counties using these flexibilities must be able to demonstrate their need and that they will increase access to care to reach a greater number of families served.

Reports on both county pilots. Preliminary findings from the first full fiscal year of the Santa Clara County pilot's implementation (2018-19) found that the pilot served a total of 10,228 children - 280 more children served than the previous fiscal year. In the first full year of the pilot's implementation, Santa Clara County "earned" $47,775,256 of its contracted funds, which was $3,834,573 more than the previous year

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

According to the Senate Appropriations Committee:

1) This bill allows the County of Santa Clara to continue to retain potentially millions of dollars of unspent child care funds that would otherwise revert to the General Fund. By allowing for individualized eligibility requirements and provider rates in this high cost county, this program allows the County to spend a greater share of their existing funds on subsidized child care, rather than returning the funds to the state. Such reversions are typically redistributed for other child care purposes in subsequent year.

2) The CDE estimates ongoing General Fund costs of $124,000 to maintain the staff position associated with the various child care pilot programs.

3) This bill could result in additional one-time General Fund costs, likely to be minor, for DSS and CDE to complete the study required by this bill.

SUPPORT: (Verified 8/26/21)

County of Alameda (co-source)
County of Santa Clara (co-source)
Santa Clara County Office of Education (co-source)
County Welfare Directors Association
Child Care Providers United
Silicon Valley Community Foundation
UDW/AFSCME Local 3930

OPPOSITION: (Verified 8/26/21)

None received

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: Lynn Lorber / ED. / (916) 651-4105
9/3/21 10:51:22

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

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

THIRD READING

Bill No: AB 1320
Author: Bauer-Kahan (D)
Amended: 8/26/21 in Senate
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 9-0, 6/9/21
AYES: Limón, Ochoa Bogh, Bradford, Caballero, Dahle, Durazo, Hueso, Min, Portantino

SENATE JUDICIARY COMMITTEE: 11-0, 6/22/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 77-0, 5/6/21 (Consent) - See last page for vote

SUBJECT: Money transmission: customer service

SOURCE: Author

DIGEST: This bill requires money transmitters to provide a toll-free telephone number through which a customer may contact the company for customer service issues and receive live customer assistance.

ANALYSIS:

Existing law:

1) Provides the Money Transmission Act (MTA), administered by Department of Financial Protection and Innovation (DFPI), which requires licensure of persons engaged in the business of money transmission, unless the person is exempt. (Financial Code Section 2000 et seq.)

2) Defines money transmission as any of the following: selling or issuing payment instruments, selling or issuing stored value, or receiving money for transmission. (Financial Code Section 2003(q))

3) Requires money transmitters to provide specified disclosures to consumers, including a notice that informs consumers that they may file a complaint with DFPI. (Financial Code Sections 2100 – 2105)

This bill:

1) Requires, as of July 1, 2022, a money transmitter to prominently display on its internet website a toll-free telephone number through which a customer may contact the licensee for customer service issues and receive live customer assistance.

2) Requires that the telephone line to be operative at least 10 hours per day, Monday through Friday, excluding federal holidays.

3) Requires a money transmitter to include on receipts to customers issued on or after July 1, 2022, a telephone number through which the customer can contact the money transmitter.

Background

The MTA regulates persons who sell or issue payment instruments or stored value or who receive money for transmission. Payment instruments include checks, drafts, money orders, and traveler's checks. Stored value includes prepaid cards and digital or mobile wallets that are used to make payments at a variety of merchants. Receiving money for transmission describes services provided by Western Union and similar remittance services companies, as well as other money transfer services. The MTA provides a variety of exemptions from licensure; several important exemptions include those for banks, credit unions, payroll processors, and certain payment system operators.

The integration of technology into the design and provision of products and services has changed the financial services industry significantly over the last three decades, including the money transmission space. Legacy payment instruments, like checks and money orders, have fallen out of favor with consumers and businesses, while the use of prepaid cards and digital wallets has grown tremendously. As money transmission activities migrate to the virtual world, users find that they often interact with some money transmitters solely through a mobile application, rather than visiting a brick-and-mortar location and interacting with agents of the money transmitter. While digital models certainly expand access and

provide conveniences, users are exposed to higher risks of being targeted by hackers or fraudsters, and they may experience difficulties in trying to remedy customer service issues.

Comments

1) *Risks Related To Money Transmission Are Increasing*

Recent news reports and regulatory data show a sharp increase in complaints related to fraud in relation to popular money transmission apps, like Square, Venmo, and PayPal. Total mentions of the words "fraud" or "scam" in app user reviews jumped 335% for Cash App in February 2021, compared with February 2020. PayPal saw a 191% increase and Venmo saw a jump of 84%. Zelle, a bank-operated payments network, however, declined 9%.

While it is unreasonable for a money transmitter to be expected to prevent all fraud attempts, users report that some companies are very difficult to contact when trying to deal with fraudulent activity. One user shared the following information about his experience when a hacker stole his money and laundered it through purchases of Tesla stock and then bitcoin:

> “When all this was going down I received no notifications whatsoever,” the student said, bewildered that the hackers also blocked Cash App from sending its regular transaction confirmations.
>
> He said Cash App responded to his first report of fraud, via email, saying initially that only his bank could initiate a dispute over the withdrawals. He said repeated requests to talk with a Cash App representative were unsuccessful.
>
> “I've literally been sick to my stomach every day because of this company...and it's still happening, that's the sad thing,” he told Yahoo Finance.

Compounding the frustration and suffering, some consumers encounter automated messages and artificial intelligence-powered bots that some money transmitters use to deal with customer complaints, but these technologies are insufficient to resolve all problems.

2) *This Bill Proposes a Modest Customer Service Standard*

This bill seeks to provide users of money transmission services with a way to contact the money transmitter to resolve customer service issues. Especially

with newer, technology-enabled services, user accounts are at risk of being taken over by hackers or fraudsters, potentially leaving users unable to login to their accounts to access online customer service options. Additionally, less sophisticated users may not be able to navigate the chat function or similar features on websites or mobile apps. To address this issue, this bill requires that money transmitters provide a telephone number whereby users can contact the money transmitter to address customer service issues.

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

According to the Senate Appropriations Committee, unknown, but likely minor fiscal impact to the DFPI to oversee money transmitter licensees' compliance with posting the toll-free telephone number and providing live customer assistance.

SUPPORT: (Verified 8/26/21)

California Reinvestment Coalition
Consumer Attorneys of California
Consumer Reports Advocacy

OPPOSITION: (Verified 8/26/21)

None received

ARGUMENTS IN SUPPORT: Consumer Reports writes in support, "[Our] research shows that consumers using payments services expect to be able to access help. Providers should be required to live up to consumer expectations of accessible help. Moreover, in requiring a point of telephone contact, AB 1320 strips scammers of an avenue of exploitation. MSBs frequently lack a point of telephone contact, leaving a gap scammers are happy to fill, posting phone numbers and abusing people who contact them by inducing callers to share sensitive information, and ultimately, resulting in lost consumer funds. AB 1320's telephone requirement can help thwart fraud."

ASSEMBLY FLOOR: 77-0, 5/6/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris,

Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Mullin

Prepared by: Michael Burdick / B. & F.I. /
8/31/21 9:47:56

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

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

THIRD READING

Bill No: AB 1326
Author: Arambula (D), et al.
Amended: 8/31/21 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 7/6/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE EDUCATION COMMITTEE: 7-0, 7/14/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

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: Public social services: county liaison for higher education

SOURCE: Author

DIGEST: This bill requires a county human services agency to designate at least one employee as a staff liaison to serve as a contact for academic counselors and other professional staff at a campus of a postsecondary education institution to provide information on programs and services that may be available to students. This bill also requires the California State University (CSU) and the California Community Colleges (CCC), and requests the University of California (UC), to conduct a survey to determine the effectiveness of the county liaison position established by this bill.

Senate Floor Amendments of 8/31/21 make technical change to correct a drafting error.

ANALYSIS:

Existing law:

1) Establishes under federal law the Supplemental Nutrition Assistance Program (SNAP) to promote the general welfare and to safeguard the health and wellbeing of the nation's population by raising the levels of nutrition among low-income households. *(7 USC Section 2011 et seq.)*

2) Restricts any individual, who is enrolled at least half-time in an institutions of higher education, from qualifying for SNAP benefits, unless the individual qualifies for an exception, as specified *(7 CFR 273.5 et seq.)*

3) Establishes in California statute the CalFresh program to administer the provision of federal SNAP benefits to families and individuals meeting specified criteria. *(WIC 18900 et seq.)*

4) Requires the California Department of Social Services (CDSS), in consultation with representatives of the Chancellor's Office of the CCCs and of the CSU; UC President's Offices; the California Workforce Investment Board; county human services agencies; and advocates for students and clients, to establish a protocol to identify and verify all potential exemptions to the eligibility rule specified in current federal law, and to identify and verify participation in educational programs, as specified, that would exempt a student from the eligibility rule. *(WIC 18901.11(b))*

5) Requires CDSS to maintain and regularly update the list of programs identified by the workgroup as meeting specified federal standards, which provide that a student is eligible for an exemption from the CalFresh program's eligibility rules if the student's attendance can be described as part of a program to increase the student's employability. *(WIC 18901.11(c))*

6) Instructs CDSS to issue and maintain instructions for county human services agencies to verify exemptions to the CalFresh student eligibility rules for students who participate in qualified programs, who are approved and anticipate participating in state or federal workstudy, or students who meet one of the qualifications for exemptions, as specified. *(WIC 18901.11(d)(1))*

7) Establishes under federal law the Temporary Assistance for Needy Families (TANF) program to provide aid and welfare-to-work (WTW) services to eligible families. *(42 U.S.C. 601 et seq.)*

8) Establishes the California Work Opportunity and Responsibility to Kids (CalWORKs) program within California to provide TANF funds for WTW services to eligible families. *(WIC 11200 et seq.)*

9) Establishes the UC as a public trust to be administered by the UC Board of Regents (Regents) and grants the Regents full powers of organization and governance subject only to legislative control as necessary to ensure the security of funds, compliance with terms of its endowments, and the statutory requirements around competitive bidding and contracts, sales of property, and the purchase of materials, goods, and services. *(Article IX, Section (9)(a) of the California Constitution)*

10) Establishes the CSU system, made of 23 campuses, and bestows upon the CSU Trustees, through the Board of Trustees, the powers, duties, and functions with respect to the management, administration, and control of the CSU system. *(EDC 66606 and 89030, et seq)*

11) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in this state. The CCC shall be comprised of community college districts. *(EDC 70900)*

12) Requires each campus of the CSU and the CCC, and requests each campus of the UC to include on a website account for enrolled students, a notification of and a link to information on specified public services and programs, including the CalFresh program, county or local housing resources, as specified, and local or county mental health services. *(EDC 66027.6)*

13) Establishes the Community College Student Financial Aid Outreach Program to provide financial aid training to counselors, which includes addressing the financial needs of a number of in-need populations of students, as specified. *(EDC 69514.5)*

14) Establishes the CalWORKs Recipients Education Program within the CCC and specifies the intention of the program is to assist CalWORKs recipients prepare for employment. *(EDC 79200 et seq.)*

This bill:

1) Makes legislative findings regarding student housing and food insecurity and declares legislative intent to expedite the connection between students in need and critical county services.

2) Requires the Office of the Chancellor of the CSU and the Office of the Chancellor of the CCC, and requests the Office of the President of the UC, in collaboration with county human services agencies, to conduct a survey to determine the effectiveness of the county liaison position established by this bill.

3) Requires the survey to address specified information regarding connecting students to specified social services programs.

4) Requires the Office of the Chancellor of the CSU and the Office of the Chancellor of the CCC, and requests the Office of the President of the UC, to report the results of the survey to the Senate Committees on Education and Human Services, the Assembly Committees on Higher Education and Human Services, the Assembly Committee on Budget, the Senate Committee on Budget and Fiscal Review, and CDSS on or before January 1, 2025, as specified.

5) Repeals the survey and report requirements on January 1, 2026.

6) Requires a county human services agency to designate at least one employee as a staff liaison, as provided.

7) Requires the staff liaison to serve as a point of contact for academic counselors and other relevant professional staff at a campus of an institution of public higher education located within the county and provide information on programs and services offered by the agency that may be available to students attending a campus of an institution of public higher education within the county, as specified.

8) Requires a county human services agency, with input from the public institutions of higher education located within the county, to develop protocols for engagement between the agency and a campus of an institution of public higher education located within the county. Encourages the agency and the public institutions of higher education located within the county to consult stakeholders while developing the protocol, including, but not limited to, all of the following:

    a) A representative from each campus of an institution of public higher education within the county and further requires the representative shall be a staff member tasked with addressing students' basic needs on the campus;

    b) A counselor or other relevant professional staff from each campus of an institution of public higher education within the county; and

c) Relevant organizations representing the interests of students, faculty, and staff from each campus of an institution of public higher education within the county.

9) Encourages counties to provide information to the campuses of an institution of public higher education located within their borders regarding the location and hours of county human services agency public offices, as well as information regarding online and telephone access to program applications.

10) Encourages each campus of an institution of public higher education is to disseminate information regarding applying for human services programs and benefits to the campus administrator associated with student services or their designee.

11) Requires any disclosure or sharing of personal information to be made in compliance with applicable state and federal confidentiality laws.

12) Defines "public higher education" to have the same meaning as in current law.

13) Permits CDSS to implement provisions of the bill by all-county letters or similar instructions.

Comments

According to the author, "recent polls show that over half of community college students are affected by food or housing insecurity. County health and human service programs not only address basic physical and mental health needs but can be critical to a student's academic performance and success. Unfortunately, navigating the eligibility and enrollment process for these programs can be difficult for both community college counselors and students alike. Counselors and other college staff could more quickly connect students with county resources if they had assistance from the county. AB 1326 would require county human services agencies to designate a staff liaison to serve as a just such a link between counselors and county services. With liaisons directing counselors or other college staff to the appropriate programs, in-need students can more rapidly find the support they need."

Students' Basic Needs

In 2019, the California Student Aid Commission published the results of the Student Expenses and Resources Survey (SEARS), which found 35 percent of California college students surveyed experienced food insecurity. According to the survey, 10 percent of California college students surveyed did not have enough

financial income to pay rent, and one percent identified as having an inconsistent living situation. The survey identified racial disparities among those who identified as homeless, with 38 percent of college students identifying as both Hispanic or Latino and homeless and 23 percent identifying as Black or African American and homeless.

Connecting Low-Income Students to Social Services

Complicated program rules appear to create barriers to student access to some of the state's largest anti-poverty programs, such as CalWORKs, CalFresh and Medi-Cal. In recent years, the Legislature has taken proactive steps to address the prevalence of student hunger and housing insecurity. This includes almost $30 million for outreach to connect students to the CalFresh program, connecting students who are Cal Grant recipients to CalFresh, among others. This bill could help connect low-income students to social services programs, like CalWORKs and CalFresh, which are administered by the counties with guidance provided by CDSS.

CalWORKs is the state's primary cash assistance program for low-income families. In addition to cash assistance, families are provided an array of services that are intended to remove barriers to self-sufficiency. Such services could include mental health counseling, substance abuse treatment, or domestic violence services; job skills training; attendance in a secondary school or in a course leading to certificate of general educational development; among many others. The specific WTW services designed for each recipient are outlined in the CalWORKs recipient's WTW plan. In order to receive cash aid under CalWORKs, the recipient must meet the requirements in their own WTW plan. According to the Public Policy Institute of California October 2020 report on Supporting Student Parents in Community College CalWORKs Program, students participating in CalWORKs are more likely to have a better course success rate, experience full-time enrollment, and matriculate to a degree than when not enrolled in college CalWORKs programs.

CalFresh, California's version of federal SNAP, provides monthly food benefits to qualified low-income individuals and families to assist with the purchase of the food they need to maintain adequate nutrition levels. The maximum grant amount for a household size of one is $204 as of October 1, 2020. In December 2020, the average household grant was $222 per month.

Historically, California's CalFresh participation rate has been at or near the lowest in the nation, with only about 70 percent of eligible recipients enrolled in CalFresh. This means about 30 percent eligible Californians are not receiving CalFresh. In

June 2020, CDSS published *SB 77 CalFresh Student Data Report*, on college student participation in CalFresh and methods for improving student participation. According to the report, in the 2018-2019 academic year, 127,360 students received CalFresh benefits. However, between 289,211 and 561,873 students were likely to be eligible but not receiving food benefits in the same academic year. The report estimated that the student participation rate in CalFresh is between 18 and 30 percent.

While numerous factors contribute to the low take up rate for CalFresh, two commonly cited reasons for low enrollment are the complicated enrollment and recertification processes, especially for students and people who are elderly or disabled. Anecdotally, college students and administrators at public higher education institutions have expressed frustration with how challenging it can be for college students who face food insecurity to access CalFresh due to the complexity of eligibility rules for students.

AB 1326 creates a system through which county health and human services agencies can communicate and collaborate with the higher education institutions within the county in order to connect needy students to social services benefits.

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

According to the Senate Appropriations Committee:

- CDSS estimates that this bill would result in costs in the low millions of dollars annually to appoint a liaison for higher education in each county (General Fund, if approved as a mandated cost)

- Minor one-time GF costs to UC president's office and the CSU chancellor's office to collect survey data and report information by January 1, 2025.

- One-time GF costs in the mid-hundreds of thousands of dollars over three years to the CCC Chancellor's office to collect survey data and report information by January 1, 2025.

SUPPORT: (Verified 8/25/21)

California State University, Office of the Chancellor
California Student Aid Commission
Faculty Association of California Community Colleges
National Association of Social Workers, California Chapter
University of California
University of California Student Association

OPPOSITION: (Verified 8/25/21)

None received

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: Taryn Smith / HUMAN S. / (916) 651-1524
9/1/21 16:20:28

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

SENATE RULES COMMITTEE AB 1330
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1330
Author: Frazier (D)
Amended: 6/30/21 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 7/6/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 4/29/21 (Consent) - See last page for vote

SUBJECT: Alcoholic beverages: delivery and provision

SOURCE: Author

DIGEST: This bill prohibits an alcohol licensee from delivering alcoholic beverages to a consumer pursuant to any order received for an alcoholic beverage by telephone or other electronic means unless specified conditions are met. In addition, this bill exempts a licensed premise operated under a beer manufacturer license from a current requirement in the Alcoholic Beverage Control (ABC) Act that requires an on-sale retail licensee that give, sell, or otherwise dispense draught beer to include specified information regarding the beer upon the faucet, spigot, or outlet from which the beer is drawn or in the place of service or consumption, as provided.

ANALYSIS:

Existing law:

1) Establishes the Department of ABC and grants it exclusive authority to administer the provisions of the ABC Act in accordance with laws enacted by the Legislature. This involves licensing individuals and businesses associated

with the manufacture, importation, and sale of alcoholic beverages and the collection of license fees for this purpose.

2) Authorizes a person holding an on-sale general license, with respect to beer and wine, and any on-sale license, with respect to the particular beverage or beverages mentioned in the license, to exercise the rights and privileges granted by an off-sale beer and wine license.

3) Prohibits an off-sale license from delivering alcoholic beverages from an order received over the telephone or other electronic means without requiring proof of age and identity when the beverages are delivered.

4) Provides that any person under 21 years of age who purchases any alcoholic beverage, who consumes any alcoholic beverage in any on-sale premises, or who possesses any alcoholic beverage on any street or highway or in any public place or any place open to the public is guilty of a misdemeanor.

5) Provides that every person who sells, furnishes, gives, or causes to be sold, or given away any alcoholic beverage to any person under 21 years of age is guilty of a misdemeanor.

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

7) Requires every holder of an on-sale retail license who gives, sells, or otherwise dispenses any draught beer, upon the faucet, spigot, or outlet from which the beer is drawn, attach and keep posted a clear and legible notice, placard, or marker which shall in the English language indicate and declare the name or brand adopted by the manufacturer of the draught beer so given, sold, or dispensed by the licensee.

8) Provides that if that faucet, spigot, or other drawing device is in a location not within the room of the place of service and consumption of the beer, there shall also be kept posted a similar notice, placard, or marker in the place of service and consumption of the beer which shall truthfully state and indicate only the kinds and brands of draught beer actually on sale in the premises of the on-sale licensee.

This bill:

1) Prohibits a licensee from delivering any alcoholic beverages to a consumer pursuant to any order received for an alcoholic beverage by telephone or other electronic means unless all of the following conditions are met:

    a) The person delivering the alcoholic beverage is 21 years of age or over.
    b) The person delivering the alcoholic beverage verifies by means of bona fide evidence of majority and identity that the person taking delivery of the alcoholic beverage is 21 years of age or over.
    c) The person delivering the alcoholic beverage determines that the person taking delivery of the alcoholic beverage is not obviously intoxicated.
    d) The receipt, invoice, or billing statement pertaining to the sale and delivery of the alcoholic beverage identifies the licensee as the merchant.
    e) The delivery of the alcoholic beverage is a person-to-person transfer with the recipient taking physical possession of the alcoholic beverage.
    f) The alcoholic beverage is delivered to a physical address.
    g) The alcoholic beverage is paid for before the delivery of the alcoholic beverage, and no money is exchanged between the person delivering the alcoholic beverage and the person taking delivery of the alcoholic beverage.
    h) Any alcoholic beverage to be delivered shall be removed from the licensed premises during the hours in which the licensee is permitted to sell, and the delivery shall be complete no later than 60 minutes after the time the licensee is required to end sales.

2) Exempts a licensed premise operated under a beer manufacturer license from a current requirement in the ABC Act that requires an on-sale retail licensee that give, sell, or otherwise dispense draught beer to include specified information regarding the beer upon the faucet, spigot, or outlet form which the beer is drawn or in the place of service or consumption, as provided.

Comments

Purpose of the bill. In California, the ABC Act requires on-sale retail licensees who sell draught beer shall, upon the faucet, spigot, or outlet from which the beer is drawn, attach and keep posted a clear and legible notice, placard, or marker which shall in the English language indicate and declare the name or brand adopted by the manufacturer of the beer. The author's office points out that this is to ensure consumers are aware of the brand/type of beer that is being sold by the retailer.

According to the author's office, this bill will clarify that tap handles at beer manufacturer facilities and tasting rooms which usually involve a tour of the facility before taking advantage of the chance to taste are not required to be labeled under existing law intended for on-sale retail facilities.

The author's office further argues that, "AB 1330 will expand specified legal requirements and safeguards in the ABC Act when alcoholic beverages are ordered and delivered to an individual by an ABC licensee. The bill will further ensure that the necessary age verification steps are being taken to keep alcohol out of the hands of minors. AB 1330 will make certain that alcohol deliveries be completed through a person-to-person transfer to ensure proper identification and prevent sales to minors and the intoxicated. This bill will not only help to prevent underage drinking but improve public safety."

The author's office also states that, "the state has a responsibility to regulate the retail sale of alcohol and as a society, we must do everything we can to prevent youth access to alcohol."

Age verification. Existing law prohibits an off-sale license from delivering alcoholic beverages from an order received over the telephone or other electronic means without requiring proof of age and identity when the beverages are delivered. This language is quite vague and does not provide clear guidelines for licensees that deliver alcohol to a consumer's address. This bill expands on that provision by, among other things, requiring the person delivering the alcoholic beverage verify by means of bona fide evidence of majority and identity that the person taking delivery of the alcoholic beverage is 21 years of age or over. In addition, the bill clearly requires the delivery to a person-person transfer.

Although this bill expands on the requirements of alcohol delivery by an off-sale licensee, the Senate Governmental Organization Committee is unaware of any off-sale licensee who is currently delivering alcoholic beverage from an order received over the telephone or other electronic means whose business model would need to be significantly altered to fulfill these new requirements.

It should also be noted that this bill only applies to off-sale licensees and not third party delivery companies. Third party delivery companies are currently not required to obtain a license from the Department of ABC. However, SB 389 (Dodd, 2021) was recently amended in the California State Assembly to authorize the Department of ABC to issue a consumer delivery service permit and require any third party delivery company who delivers alcoholic beverages to obtain a consumer delivery service permit in order to continue to operate in the State of California. Similar to this bill, SB 389 requires age verification at the point of

delivery as well as require that the person delivering the alcoholic beverage be 21 years of age or older. Both bills are drafted to ensure that the provisions of both bills are not in conflict and provide for consistency in the delivery process by both an off-sale licensee and third party delivery companies.

Licensee penalties for sales to minors. Current law authorizes the Department of ABC to issue a 15-day suspension to a licensee for a first violation of provisions relating to the sale or furnishing of alcoholic beverages to a person under the age of 21. A second violation within 36 months may result in a 25-day suspension and a third violation within 36 months may result in license revocation.

Additionally, current law allows a licensee to pay a fine in lieu of serving the suspension. If the Department of ABC finds that public welfare and morals would not be impaired by the substitution of a fine for the actual suspension of the licensed business, the retail licensee may pay a sum of money equal to 50% of the estimated gross receipts from the sale of alcoholic beverages during the period of suspension, subject to various limits. However, a licensee may not petition the Department of ABC for an offer in compromise for a third or any subsequent violation that occurs within 36 months of the initial violation.

Posting of signs. In California, the ABC Act requires on-sale retail licensees who sell draught beer to, upon the faucet, spigot, or outlet from which the beer is drawn, attach and keep posted a clear and legible notice, placard, or marker which shall in the English language indicate and declare the name or brand adopted by the manufacturer of the beer. The author's office points out that this is to ensure consumers are aware of the brand/type of beer that is being sold by the retailer.

According to the author's office, this bill will clarify that tap handles at beer manufacturer facilities and tasting rooms which usually involve a tour of the facility before taking advantage of the chance to taste are not required to be labeled under the existing codes intended for on-sale retail facilities.

The author's office points out that a brewery tasting room operated by a licensed beer manufacturer often does not mark their taps due to the high level of familiarity the server has with the various beers they manufacture and serve the public. Despite the fact that the brewery tasting room is operating under a "beer manufacturer" license there has been confusion about whether or not a brewery tasting room needs to comply with provisions in the ABC Act that requires the posting of signs that clearly declare the name or brand of the beer manufacturer. AB 1330 clarifies that the law only applies to an on-sale retail licensee and not licensed premises operated by a licensed beer manufacturer.

Related/Prior Legislation

SB 389 (Dodd, 2021), among other things, authorizes the Department of ABC to issue a consumer delivery service permit, as specified. (Pending in the Assembly Appropriations Committee)

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

SUPPORT: (Verified 8/17/21)

California Alcohol Policy Alliance
Liver Coalition of San Diego

OPPOSITION: (Verified 8/17/21)

None received

ARGUMENTS IN SUPPORT: According to the California Alcohol Policy Alliance, "we believe AB 1330 will reduce harm and associated costs by the regulation of third-party alcohol delivery. Regulation of home delivery is currently non-existent and the source of a great deal of potential harm to public health and safety, especially to vulnerable young people."

ASSEMBLY FLOOR: 77-0, 4/29/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Luz Rivas

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/19/21 11:37:46

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

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

THIRD READING

Bill No: AB 1346
Author: Berman (D) and Lorena Gonzalez (D), et al.
Amended: 8/26/21 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: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 49-20, 6/2/21 - See last page for vote

SUBJECT: Air pollution: small off-road engines

SOURCE: Author

DIGEST: This bill requires the Air Resources Board (ARB) to adopt regulations to prohibit emissions from new "small off-road engines"—such as those in lawn care equipment or portable generators—to apply to engines produced on or after January 1, 2024, or as soon as ARB determines is feasible, whichever is later.

ANALYSIS:

Existing federal law:

1) Sets, through the Federal Clean Air Act (FCAA) and its implementing regulations, National Ambient Air Quality Standards (NAAQS) for six criteria pollutants, designates air basins that do not achieve NAAQS as nonattainment, allows only California to set emissions standards stricter than the federal government, and allows other states to adopt either the federal or California emissions standards. (42 U.S.C. §7401 et seq.)

2) Prohibits states from adopting emission standards that would affect new nonroad engines which are used in farm or construction equipment or vehicles and which are smaller than 175 horsepower. (42 U.S.C. §7543)

Existing state law:

1) Establishes the ARB as the air pollution control agency in California and requires the ARB, among other things, to control emissions from a wide array of mobile sources and implement the FCAA. (Health and Safety Code (HSC) §39500 et seq.)

2) Describes what is meant by "small off-road engine" (SORE) by:
   a) Defining SORE to mean any engine that produces a gross horsepower less than 25 horsepower (at or below 19 kilowatts for 2005 and later model year), or is designed (e.g., through fuel feed, valve timing, etc.) to produce less than 25 horsepower (at or below 19 kilowatts for 2005 and later model year), that is not used to propel a licensed on-road motor vehicle, an off-road motorcycle, an all-terrain vehicle, a marine vessel, a snowmobile, a model airplane, a model car, or a model boat;

   b) Stating that SORE uses include, but are not limited to, applications such as lawn mowers, weed trimmers, chain saws, golf carts, specialty vehicles, generators, and pumps; and

   c) Asserting that all engines and equipment that fall within the scope of the preemption of Section 209(e)(1)(A) of the FCAA, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically not included within this category. (13 CCR §2401)

This bill:

1) Requires ARB, by July 1, 2022, to adopt cost-effective and technologically feasible regulations to prohibit engine exhaust and evaporative emissions from new SORE, as defined by the state board. Requires the regulations to apply to engines produced on or after January 1, 2024, or as soon as ARB determines is feasible, whichever is later.

2) Requires ARB to identify, and, to the extent feasible, make available, funding for commercial rebates or similar incentive funding as part of any updates to existing, applicable funding program guidelines for air districts to implement to support the transition to zero-emission SORE operations.

3) Requires ARB, in determining technological feasibility, to consider:

a) Emissions from SORE in the state;
b) Expected timelines for zero-emission SORE development;
c) Increased demand for electricity from added charging requirements;
d) Use cases of commercial and residential lawn and garden users; and
e) Expected availability of zero-emission generators and emergency response equipment.

4) Makes related findings.

Background

1) *ARB SORE regulations*. SORE have been a regulated category since 1990, when the first emission standards for this category were adopted. The current exhaust emission standards for SORE were implemented between model years 2000 and 2008. The current evaporative emission standards were implemented between 2006 and 2013.

   In March 2021, ARB staff held a public workshop on a draft regulatory proposal to amend the SORE regulations. Staff plan to bring a proposal to the Board in the fall of 2021. The draft regulatory proposal includes updated emission standards for new SORE that would transition small off-road equipment to zero emissions. A new emission reduction credit program would facilitate the transition of generators from SORE to zero emissions.

   ARB staff have held three public workshops, including the March 2021 workshop, to discuss potential amendments to the SORE regulations. Staff have also participated in conventions and community meetings, met with stakeholders, and conducted other outreach to get feedback on draft proposals. Staff will continue to consider feedback from stakeholders as they develop a proposal for the Board's consideration to transition small off-road equipment in California to zero-emission equipment.

2) *Technology forcing*. Technology forcing is a regulatory strategy that establishes currently unachievable and uneconomic performance standards to be met at some future point in time. The legislation or regulatory rules also set a defined time period for achieving these performance standards. Essentially, technology forcing sets regulatory standards and provides incentives for achieving the standards or disincentives for not achieving them.

   A 2005 study in the journal "Technological Forecasting & Social Change" by

two Carnegie Mellon University public policy experts describes the experience of promulgating technology forcing regulations as follows:

"Technology-forcing policies are well suited for a study of the role of regulatory implementation in fostering technological change for two reasons: First, the specific intent of technology-forcing policies is to elicit advancements in environmental control technologies. Second, technology-forcing policies create an adversarial setting where regulators and firms each actively attempt to shape and to change the actions of the other party. Specifically, regulators want to force firms to commit resources to R&D whereas firms want regulators to delay, relax, or rescind the standards."

The proposed ARB SORE regulations are technology forcing. California has made use of technology forcing regulations to improve air quality since the 1960s in controlling pollution from automobiles and other sources.

Comments

1) *Purpose of this bill.* According to the author, "Today, operating the best-selling gas-powered commercial leaf blower for one hour emits air pollutants comparable to driving a 2017 Toyota Camry from Los Angeles to Denver. Smog-forming emissions from small engines will surpass those from passenger vehicles this year. We must look beyond transportation if we are to achieve the emissions reductions needed to fight climate change and improve air quality and health in our communities.

   "AB 1346 will require sales of new small off-road engines in California to be zero-emission by 2024 or when the California Air Resources Board determines is feasible, whichever is later. This bill also requires the California Air Resources Board to make funding available to help landscaping businesses transition to zero-emission equipment. Transitioning to zero-emission equipment will reduce the occurrence of asthma, cardiovascular disease, and premature death caused by air pollution, and help California meet our air quality goals."

2) *SORE emissions.* Overall, statewide emissions from SORE are estimated by ARB, using their SORE2020 model, to be approximately 150 tons per day of oxides of nitrogen (NOx) and reactive organic gases (ROG). This is comparable to the NOx and ROG emissions from the state's light-duty passenger car fleet. This baseline emission estimation is what motivates ARB's current rulemaking, but is under question by the opposition to this bill.

The SORE2020 model is based on new data from multiple sources, including a 2018 Cal State Fullerton phone survey of 3,131 respondents, engine production line testing data on the annual production of SORE, evaporative emission reporting data on the annual production volume of SORE equipment, and emissions data from certification and in-house testing of SORE.

3) *Not all SORE are created equal*. According to ARB, the largest SORE contributors to smog-forming emissions in its jurisdiction are generators, followed by leaf blowers, lawn mowers, riding mowers, trimmers, chainsaws, and pressure washers. There are several more equipment types using ARB-regulated SORE with less significant total emissions. The definition of SORE used by ARB encompasses at least lawn mowers, weed trimmers, chain saws, golf carts, specialty vehicles, generators, and pumps.

   Not all replacements of SORE-powered equipment with zero-emission equipment (ZEE) will be as simple as residential users buying electric lawn care equipment for personal use as needed. Commercial lawn care operations need equipment that can run considerably longer in one day than residential users need, and (depending on the scale of their business) may create noteworthy demand increases on the electricity grid when charging. Fossil fuel-powered generators can provide needed electricity during an extended emergency, and users may have little discretion in when they need to use them.

4) *Leading the way*. Despite the challenges associated with transitioning to ZEE, there are technologies and businesses doing so today.

   A recent article in the *Washington Post* profiled a lawn care business in Alabama that predominantly uses electric equipment. The story states that the volume of electric-powered lawn equipment shipped by North American manufacturers increased from 9 million units in 2015 to over 16 million units in 2020 – a 75% increase in five years, during which the overall lawn equipment market shifted from 32% to 44% electric. The article also acknowledged that runtime, cutting power, and costs all still remain reasons for reluctance to switch. One solution discussed for charging issues was to outfit landscaping vans with solar panels to recharge batteries on the go—an expensive solution that one company was able to implement by charging customers 10% to 20% more than their competitors.

   Battery-powered and fuel cell options to replace generators are also available, though the ZEE options do come with downsides compared to fossil fuel-powered offerings. While portable power stations such as the popular Goal Zero

Yeti can provide power without any associated noise or emissions from the unit, they are ultimately constrained by battery capacity. Whereas a gasoline or diesel generator can be refueled repeatedly with little downtime, a portable power station may take hours to recharge. There are also concerns about the charge that can be delivered at once being unable to power the amount of appliances and devices a conventional generator can. These ZEE options can also be five to twenty times the cost of fossil-fuel powered options.

In many use cases, complying with the proposed updated SORE regulation would not require wholesale invention of new technology, but rather improvements to existing ZEE offerings and accelerated adoption timelines. This is a familiar conundrum in adopting technology forcing regulations. Just how much can ZEE technology be expected to improve in the coming years, and will adopting aggressive targets hasten those improvements?

5) *Fraught decision*. There is no dispute that the ZEE requirements being contemplated by ARB for some SORE equipment could be prohibitively expensive—if not downright impossible—to achieve today. Successful technology forcing SORE regulations then must thread a needle. If the regulations are truly unachievable in the given timeframe, no manufacturers or users will comply. If the regulations are fully within the realm of comfort and normal turnover for users, no additional improvement to air quality will be achieved.

   In AB 1346, the Legislature is faced with weighing in on a technology forcing regulatory process that is currently underway. However, this bill does not make substantial changes to the contents of that regulation. It puts some firm timeline requirements on ARB, but also leaves some elements to the board's discretion. Under AB 1346, ARB will be given a July 1, 2022 deadline to adopt new SORE regulations that prohibit engine exhaust and evaporative emissions from new SORE. They will also be required to identify and (where feasible) make available funding for rebates or other incentives.

   Even if AB 1346 were enacted, the content of those regulations is left largely to ARB's discretion. They must be "cost-effective and technologically feasible," and they must "apply to engines produced on or after January 1, 2024, or as soon as the state board determines is feasible, whichever is later." Recent amendments to AB 1346 ensure that in determining technological feasibility, ARB considers several important issues that have been raised by opponents to this bill.

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

According to the Senate Appropriations Committee, cost pressure of an unknown, but likely significant amount (General Fund or special funds), to provide commercial rebates or incentive funding to support the transition to zero-emission SORE. Unknown one-time costs for ARB to implement the provisions of this bill.

SUPPORT: (Verified 8/26/21)

350 Bay Area Action
350 Humboldt: Grass Roots Climate Action
350 Sacramento
350 Silicon Valley
Active San Gabriel Valley
Alliance of Nurses for Healthy Environments
Altadena Heritage
American Lung Association in California
Audubon California
Bay Area Air Quality Management District
Breathe California Sacramento Region
California Walks
Carbon Free Mountain View
Center for Community Action & Environmental Justice
Central California Asthma Collaborative
Cha Cha Clean Healthy Air, Clean Healthy Altadena
Cities of Albany, Glendale, Los Altos, Mountain View, Palo Alto, San Jose, South Pasadena
Clean Power Campaign
Climate Health Now
Coalition for Clean Air
Electrify Now
Environment California
Glendale Environmental Coalition
Greentown Los Altos
Natural Resources Defense Council
Physicians for Social Responsibility - San Francisco Bay Area Chapter
Regional Asthma Management and Prevention
Sierra Club California
Silicon Valley Democratic Club
Silicon Valley Youth Climate Action
South Coast Air Quality Management District

The Climate Center
Town of Fairfax
Union of Concerned Scientists
Verdugo Woodlands West Homeowners Association
Zev 2030

OPPOSITION: (Verified 9/1/21)

California Retailers Association
Far West Equipment Dealers Association
Harbor Freight Tools
National Association of Landscape Professionals
Outdoor Power Equipment Institute
Portable Generator Manufacturers Association
Truck and Engine Manufacturers Association

ARGUMENTS IN SUPPORT: According to a coalition of environmental advocacy groups in support, "Small off-road engines (SORE) emit high levels of air pollutants, including oxides of nitrogen (NOx), reactive organic gases (ROG), and particulate matter (PM). For example, one hour of operation of a commercial leaf blower can emit as much ROG and NOx as driving 1,100 miles in a 2017 Toyota Camry. California daily NOx and ROG emissions from SORE are predicted to surpass emissions from light-duty passenger cars this year. If the state does not take action, emission levels from small engines are expected to increase. By 2031, small engine emissions will be more than twice those from passenger cars.

"There are zero-emission equivalents to all SORE that are regulated by the California Air Resources Board (CARB), generally electric alternatives that run on batteries or plug into an outlet. Many users, including over half of household users, have already begun the transition to zero-emission equipment."

ARGUMENTS IN OPPOSITION: According to the Outdoor Power Equipment Institute, "The bill closely mirrors the California Air Resources Board's (CARB) March 24, 2021 proposal. CARB's recent potential rule proposes similarly zero level emission limits starting with model year 2024. AB-1346 and CARB's potential rule will, in effect, ban most SORE equipment starting in just over two years. AB-1346 and CARB's potential rule pose numerous technology feasibility, economic, and implementation challenges for industry stakeholders. Collectively these challenges are insurmountable and will result in significant hardships for manufacturers, retailers and end-users, culminating in an early market shortfall of

products with high consumer need and demand. As a result, industry groups oppose both AB-1346 and CARBs potential rule.

“Industry believes it is not too late to develop a data-supported and reasonable regulatory reduction strategy to achieve California’s model year 2031 SORE State Implementation Plan (SIP) goals without banning SORE. This process starts with agreement on a representative SORE sector emissions model which serves as the basis for modeling reasonable, data-driven, technologically feasible and cost effective strategies that achieve the SIP SORE goals. Despite significant industry led outreach, CARB’s final SORE2020 model largely ignores industry concerns and as a result fails to reasonably represent SORE sector emissions. Until these issues are addressed, AB-1364 and CARB’s potential rules will continue to be arbitrary and a violation of the federal Clean Air Act which California relies on to adopt unique emissions regulations.”

ASSEMBLY FLOOR: 49-20, 6/2/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Ramos, Reyes, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Rendon
NOES: Chen, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Quirk-Silva, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Arambula, Bigelow, Choi, Cooper, Daly, Mayes, O'Donnell, Luz Rivas, Rodriguez, Wood

Prepared by: Eric Walters / E.Q. / (916) 651-4108
9/1/21 11:27:44

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

SENATE RULES COMMITTEE AB 1384
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1384
Author: Gabriel (D), et al.
Amended: 8/26/21 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 7-2, 6/29/21
AYES: Stern, Allen, Eggman, Hertzberg, Hueso, Laird, Limón
NOES: Jones, Grove

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 7/12/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21
AYES: Portantino, Bradford, Kamlager, Laird, McGuire
NOES: Bates, Jones

ASSEMBLY FLOOR: 57-14, 5/28/21 - See last page for vote

SUBJECT: Resiliency Through Adaptation, Economic Vitality, and Equity Act of 2022

SOURCE: Author

DIGEST: This bill establishes the Resiliency Through Adaptation, Economic Vitality, and Equity Act of 2022, which updates requirements for the state's climate adaptation strategy, Safeguarding California Plan, to prioritize equity and vulnerable communities in the plan and include metrics to measure and evaluate the state's progress in implementing the plan, as specified, among others.

ANALYSIS:

Existing law:

1) Establishes the Governor's Office of Planning and Research (OPR) as the state's comprehensive planning agency responsible for long-range planning and research.

a) Declares the Legislature's intent that OPR serve as a coordinating body for adaptation projects and goals across California.

b) Establishes the Integrated Climate Adaptation and Resiliency Program (ICARP) at OPR to coordinate regional and local efforts with state climate adaptation strategies in order to facilitate the development of holistic, complimentary strategies for adapting to climate change impacts. Requires ICARP to:

   i) Coordinate local and regional climate adaptation and resilience efforts by promoting and coordinating state agency support of these efforts and informing state-led programs to better reflect the goals, efforts, and challenges faced by local and regional entities pursuing adaptation, preparedness, and resilience.

   ii) Coordinate and maintain the state's clearinghouse for climate adaptation information.

2) Directs the California Natural Resources Agency (CNRA) to update the Safeguarding California Plan (Safeguarding California or plan), the state's climate adaptation strategy, every three years. The plan must include:

   a) Vulnerabilities to climate change by sector, as identified by the lead agency or group of agencies, and regions.

   b) Priority actions needed to reduce risks in those sectors, as identified by the lead agency or group of agencies.

3) Directs state agencies to address the vulnerabilities identified in the plan by working to maximize specified objectives, including:

   a) Promoting the use of the plan to inform planning decisions and ensure that state investments consider climate change impacts.

   b) Encouraging regional collaborative planning efforts to address regional climate change impacts and adaptation strategies.

This bill establishes the Resiliency Through Adaptation, Economic Vitality, and Equity Act of 2022. Specifically, this bill:

1) Adopts findings and declares the Legislature's intent to prioritize the most vulnerable communities, ecosystems, and economic sectors in the plan by ensuring that all state departments and agencies accurately identify,

collaboratively prepare for, and are sufficiently resourced to adequately respond to the impacts of climate change.

2) Declares, further, the Legislature's intent that CNRA consider developing policies to address the impacts of climate change and climate adaptation with a focus on equity and that actions taken to address climate adaptation should be consistent with the plan, as specified.

3) Defines terms, including "vulnerable communities."

4) Updates, beginning July 1, 2024, requirements for the plan, including:

   a) Requiring CNRA to coordinate with OPR to identify lead agencies to lead adaptation efforts in each sector, as specified.

   b) Requiring the plan to include:

      i) A financial resources sector.

      ii) A focus on vulnerable communities.

      iii) An operational definition of "climate resilience," as specified, for each sector and for vulnerable communities.

      iv) Priority actions to reduce risks and achieve climate resilience, as specified.

      v) Special protections of vulnerable communities and industries that are disproportionately impacted by climate change.

      vi) Opportunities to improve policy and budget coordination across jurisdictions, including federal and local jurisdictions.

      vii) Timetables for near-term, medium-term, and long-term timescales, and specific metrics to measure and evaluate the state's progress in implementing the plan, as specified.

   c) Requiring CNRA, in preparing the draft plan, to engage with local and regional entities to enhance policy and funding coordination and promote regional solutions and implementation.

   d) Requiring each lead agency or group of agencies, in identifying vulnerabilities, to be informed by specified research, including the California Climate Change Assessment.

5) Requires, to address vulnerabilities identified in the plan, state agencies to work to maximize, where applicable and feasible, prioritizing equity by ensuring public expenditures that address climate change adaptation prioritize protecting vulnerable communities, rectifying intersectional and systemic inequities, and enhancing low-income and vulnerable communities' abilities to weather the impacts of climate change.

6) Authorizes the State Treasurer, and the financing authorities that the Treasurer chairs, to assist state agencies by leveraging public and private capital investment to help with loans and other incentives to attain the state's climate adaptation goals.

Comments

California has been preparing adaptation plans for over a decade. In response to Executive Order S-13-08, California released the 2009 California Climate Adaptation Strategy, the state's first comprehensive plan for adapting to climate change. The report summarized the science on climate change impacts, assessed vulnerabilities, identified strategies, and outlined possible solutions to promote resiliency.

The state updated that strategy with the 2014 report Safeguarding California: Reducing Climate Risk, which provided guidance, high-level recommendations, and a statewide vision for decision-makers dealing with ongoing and inevitable climate impacts. The state later released corresponding Implementation Action Plans in 2016, conceived as a master blueprint for executing actions recommended by the 2014 update. The action plans are organized by sector and include vulnerability assessments, current actions, planned next steps, and plans for monitoring and evaluation.

In 2018, the state issued a new update, identifying hundreds of ongoing actions and next steps by state agencies to adapt to climate impacts within a framework of 81 policy principles and recommendations. Currently, CNRA is working with OPR and other state agencies to prepare the next iteration. The stated goal is to deliver a strategy that outlines the state's key climate resilience priorities, includes specific and measurable steps, and serves as a framework for action across sectors and regions in California.

What is the result of over 10 years of planning? Existing law requires CNRA to report annually to the Legislature on actions taken by each applicable agency to implement Safeguarding California. In the 2018 update, CNRA committed to reporting that would include, at minimum:

- A status update on each next step identified in this 2018 update by the appropriate agency or agencies, and

- A description of any next steps or commitments not detailed in the 2018 update included with status updates under the most appropriate recommendation.

Further, the 2018 update noted that CNRA would:

> Conduct an analysis of all the actions identified in the 2009, 2014, and 2016 adaptation plans to document all pending and completed actions. While these documents were consulted as references and sources for this update, it will be important to show the State's progress, as well as extant opportunities and needs, ten years after California's first executive order on climate change adaptation.

Aside from one report in 2019 that highlighted examples of strategies funded by state agencies, the analysis and reporting have not happened. Without regular, detailed reporting, it is difficult to assess the state's progress implementing prior plans. This is further compounded by the fact that many of the goals and actions in prior plans are not measurable and lack deadlines, making it difficult for an outsider to conduct an assessment.

This bill. This bill updates requirements for Safeguarding California, both in the content of the plan and in the process to prepare the plan, to prioritize considerations of equity and the needs of vulnerable communities. It should be noted that the last update to Safeguarding California began to touch on issues of equity by including climate justice principles, but this bill makes equity a bigger consideration. This bill also requires the plan to include metrics to measure and evaluate the state's progress in implementing the plan.

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

According to the Senate Appropriations Committee:

- Ongoing costs, likely around $500,000 annually (General Fund), for CNRA to coordinate with OPR and identify, among other things, vulnerabilities to climate change for vulnerable communities, an operational definition of "climate resilience" for each sector and for vulnerable communities, special protections of vulnerable communities and industries that are disproportionately impacted by climate change, and timetables and specific metrics to measure the state's progress in implementing the plan.

- Ongoing costs, likely in the low hundreds of thousands of dollars annually (General Fund or special fund), for OPR to support the updates to the Safeguarding California Plan.

SUPPORT: (Verified 8/27/21)

350 Silicon Valley
Azul
California State Parks Foundation
Center for Environmental Health
Climate Reality Project, San Fernando Valley
Community Nature Connection
Elders Climate Action, NorCal and SoCal Chapters
Friends of the LA River
Greenbelt Alliance
Land Trust of Santa Cruz County
Los Angeles Neighborhood Land Trust
Midpeninsula Regional Open Space District
National Stewardship Action Council
Pacoima Beautiful
San Fernando Valley Chapter of Climate Reality Project
SoCal 350 Climate Action
The River Project
Voices for Progress Education Fund

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "The effects of the climate crisis are hitting California hard. In the past few years, the state has seen rising average temperatures, destructive fires, higher sea levels, and severe drought and floods. Already many lives, and even whole communities, have been lost or destroyed. Important species, iconic trees, agriculture, and entire ecosystems on which Californians depend for vital resources are on the brink of collapse.

"The state has taken bold thought leadership to create the Safeguarding California Plan and other adaptation frameworks that offer policy principles and recommendations. However, California still lacks governance on critical priority actions and timelines to achieve those protections.

"Given the breadth, complexity, pervasiveness, persistence, and danger of climate change, it is important to have a clear framework in place to guide the state over the coming decades to ensure we have a thoughtful set of goals, coordinated government actions, and innovative funding mechanisms in place."

"According to multiple environmental organizations, AB 1384 would "fill the gaps and provide the governance that is needed to measure progress. We believe that this bill would provide the state the tools it needs to become resilient and proactive in the face of climate change."

ASSEMBLY FLOOR: 57-14, 5/28/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Choi, Megan Dahle, Davies, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Chen, Cunningham, Flora, Fong, Cristina Garcia, Gray, Maienschein, Waldron

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
8/31/21 9:48:00

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

SENATE RULES COMMITTEE AB 1390
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1390
Author: Boerner Horvath (D)
Amended: 8/26/21 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 6/29/21
AYES: Stern, Jones, Allen, Eggman, Grove, Hertzberg, Hueso, Laird, Limón

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 75-0, 5/24/21 - See last page for vote

SUBJECT: State lands: school and lieu lands

SOURCE: California State Lands Commission

DIGEST: This bill makes various changes to statute related to the selling and leasing of specified lands by the State Land Commission (SLC), including allowing SLC to sell or lease school lands without maintaining an access easement if it is in the best interests of the state and removing barriers to land acquisition.

ANALYSIS:

Existing law:

1) Establishes SLC in the California Natural Resources Agency, consisting of the Controller, the Lieutenant Governor, and the Director of Finance.

2) Establishes the School Land Bank Act (Act), which places "school lands" into a statutory trust. School lands are land or interests in land granted to the state by Congress in 1853 to provide support for public schools. The Act:

   a) Provides that it is in the best interest of the state that school lands be managed as a revenue source and generally credits all revenues, monies, and remittances from school and indemnity lands to the Teachers' Retirement

Fund for the benefit of the California State Teachers' Retirement System (CalSTRS).

i) Requires SLC to take all action necessary to fully develop school lands, indemnity interests, and attendant mineral interests into a permanent and productive resource base.

ii) Authorizes SLC to acquire real property or any interest in real property with the objective of facilitating management of school lands for the purpose of generating revenue.

b) Establishes the School Land Bank Fund (Fund) and designates SLC as the Fund's trustee. SLC must deposit all net revenues, monies, and remittances from the sale of school lands into the State Treasury to the credit of the Fund. The Fund is continuously appropriated, without regard to fiscal years, to SLC for the purposes of the Act.

c) Provides that acquisition costs and expenses, in addition to the purchase price to be paid, may be payable from the Fund, provided that those costs shall not exceed five percent of the expended funds.

3) Requires SLC to prepare a master plan for all school and lieu lands under its jurisdiction, as specified.

4) Requires, after the survey of any township by the U.S., SLC to obtain a statement from the U.S. Land Office showing whether the 16th and 36th sections therein belong to the state.

5) Prohibits the sale, lease, or renting of state land which provides the only convenient means of access to other lands owned by the state without reserving an access easement to the state and its successors, as specified.

6) Requires, before any disposition of state lands to a private party or other governmental agency, the intended recipient of such lands to submit a general plan, as specified, for the use of the subject lands with the review and comments of other interested state agencies.

This bill makes various changes to statute related to the selling and leasing of SLC's school lands. Specifically, this bill:

1) Repeals the requirement that SLC prepare a master plan for all school and lieu lands under its jurisdiction.

2) Repeals the requirement that SLC obtain, after the survey of any township by the U.S., a statement from the U.S. Land Office showing whether the 16th and 36th sections therein belong to the state.

3) Provides that SLC is not required to reserve an easement on school lands if it determines that selling the school lands without the easement is in the best interests of the state.

4) Repeals the requirement that the intended recipient of state lands to be disposed of by SLC submit a general plan for the use of the subject lands, as specified.

5) Requires SLC, at least 10 days before SLC authorizes a conveyance of state lands to a private party or other governmental agency, to notify the chair of the relevant policy committees of the Legislature and relevant members of the Legislature, as specified, and make the information available on SLC's internet website.

6) Requires SLC to include in its quarterly report to the Teachers' Retirement Board and annual report to the Legislature and Governor acquisitions under the Act, including a summary of down payments and any other transaction costs.

7) Eliminates the five percent cap on costs and expenses associated with acquisitions under the Act.

8) Provides that the costs and expenses associated with acquisitions include, but are not limited to, the fees and expenses of appraisals, escrow, broker's fees, title insurance, and other third-party costs.

9) Authorizes SLC to delegate authority to SLC's executive officer to make a nonrefundable down payment for a potential acquisition of real property or any interest in real property.

Background

After California achieved statehood, the federal government granted approximately 5.5 million acres of land to California to be used for the support of schools. This land consisted of the 16th and 36th section of each township. Approximately 90 percent of the school lands were sold prior to SLC's creation in 1938. Proceeds were used primarily to pay for school construction. SLC retains jurisdiction over approximately 458,843 acres of fee-owned school lands and 790,000 acres of reserved mineral interests.

In 1984, the Legislature passed the Act, directing SLC to retain remaining school lands and manage them to generate revenue for CalSTRS. School lands can be difficult to manage because they are broken up into noncontiguous, square-mile parcels in very isolated desert and forest areas with little value for revenue generating purposes. To address this, the Act authorized SLC to sell the isolated, non-economic school lands and use the proceeds to acquire other real property that will generate additional revenues to benefit California's retired teachers.

AB 982 (Skinner, Chapter 485, Statutes of 2011) further reformed the school lands program by directing SLC to partner with the federal government to facilitate land exchanges in the California Desert Conservation Area to consolidate school land parcels into contiguous holdings that are suitable for renewable energy related projects.

Comments

This bill repeals obsolete statutes. This includes repealing a requirement that SLC obtain specified information following federal surveys of townships. According to SLC, the federal government has completed these surveys and will not conduct any more, making the requirement obsolete. This bill also eliminates a requirement that SLC prepare a master plan for school and lieu lands. This requirement effectively duplicates a separate annual reporting requirement that details school lands management.

This bill also eliminates an outdated requirement that recipients of state lands submit a general plan for those lands to SLC and the Legislature and instead requires SLC to notify the Legislature 10 days before SLC authorizes the conveyance of the lands. This would occur at the same time SLC posts the agenda for the meeting in question.

This bill grants SLC discretion over the need for access easements on school lands. This bill provides that SLC is not required to reserve an easement on school lands if it determines that selling the school lands without the easement is in the best interests of the state. According to SLC, this change seeks to address concerns that access easements, in some cases, might damage biological or cultural resources important to Native American tribes. SLC sees this as an issue of growing concern as it seeks to implement the Administration's policy, released in September 2020, regarding Native American Ancestral Lands, to prioritize tribal purchase of state lands that are in excess of state needs.

This bill seeks to remove barriers to school lands acquisitions. It does this by removing the 5% cap on associated costs, clarifying what is included in that term,

and authorizing SLC to delegate authority to its executive officer to make down payments for potential acquisitions. According to SLC, the 5% cap on associated costs is arbitrary and undermines its competitiveness in the market because SLC must rely on sellers to cover costs that exceed the cap. Further, delegating down payment authority would allow SLC to pursue acquisitions in a more timely fashion. Staff would not need to wait until a SLC meeting to take early action on an acquisition.

Given SLC's mandate to manage the school lands to generate revenue for CalSTRS, it is not unreasonable to remove barriers that limit SLC's competitiveness in acquiring revenue generating properties for this program. Presumably, SLC's board members, including the Director of the Department of Finance and the State Controller, as heads of agencies providing oversight over the state's finances, would carefully oversee the expanded acquisition authorities. This bill also provides opportunities for Legislative review and oversight by requiring SLC report on acquisitions.

SLC is preparing a strategy to guide acquisition decisions. SLC is developing a plan for investing School Land Bank Fund monies in California real estate, with the goal of acquiring new revenue-generating properties for the Fund. The investment strategy will yield a report that is expected to help staff identify, evaluate, and compare land investment options in California and the short and long-term benefits and risks associated with each type of investment option. The report will also provide a rating system of qualifying factors to assist in ranking the suitability of each land investment that is proposed for acquisition and to compare competing properties. SLC expects to have a final report in early 2021.

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

According to the Senate Appropriations Committee, unknown but potentially significant cost pressure (School Land Bank Fund [SLBF]) for land acquisitions that otherwise would not occur. Any costs would likely be offset by lease revenue and other investment income.

SUPPORT: (Verified 8/26/21)

California State Lands Commission (source)
Office of Lieutenant Governor Eleni Kounalakis

OPPOSITION: (Verified 8/26/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "AB 1390 provides the State Lands Commission with additional tools to acquire and steward a category of public lands, known as school lands, which have been entrusted to the Commission to generate revenue for retired teachers and facilitate renewable energy development projects. The bill would remove constraints that make it difficult for the Commission to invest in property to generate revenue for CalSTRS. Removing these constraints, would also better position the Commission to avail itself of opportunities to work with the federal government to facilitate renewable energy projects, which would help California transition to a clean energy future, and help contribute to the state and federal 30 by 30 policies."

According to SLC, the sponsor, "This bill would help the Commission generate revenue to support retired teachers. Specifically, it would provide the Commission with additional tools to acquire and steward a category of public lands, known as school lands, that Commission manages to generate revenue for retired teaches and facilitate renewable energy development."

ASSEMBLY FLOOR: 75-0, 5/24/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Fong, Frazier, Friedman, Gabriel, 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: Bigelow, Flora, Gallagher

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
8/31/21 9:48:01

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

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

THIRD READING

Bill No: AB 1423
Author: Daly (D)
Amended: 8/30/21 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 9-0, 7/8/21
AYES: Cortese, Bates, Caballero, Eggman, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Housing programs: multifamily housing programs: expenditure of loan proceeds

SOURCE: Bridge Housing
California Housing Partnership

DIGEST: This bill allows a borrower to request funding from the Department of Housing and Community Development (HCD) as a construction loan, the traditional permanent financing option, or a combination of both.

Senate Floor Amendments of 8/30/21 authorize HCD, in its guidelines, to require up to 10% of its loan amount be retained until construction is completed.

ANALYSIS:

Existing law:

1) Establishes the Multifamily Housing Program (MHP) at HCD to assist the new construction, rehabilitation, and preservation of permanent and transitional rental housing for lower-income households through loans to local government, non-profit developers, and for-profit developers.

2) Establishes the Joe Serna, Jr. Farmworker Housing Grant Program (Serna Program) at HCD to finance the new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower-income households.

3) Establishes the Veterans Housing and Homelessness Prevention Program (VHHP), administered by HCD in collaboration with the state Department of Veterans Affairs (CDVA) and the California Housing Finance Agency (CalHFA). VHHP focuses on housing for veterans who are homeless, or at risk of homelessness, and are in need of service such as mental health counseling, substance abuse treatment, job training, and physical therapy to address injuries.

4) Establishes the CalHome Program at HCD to provide grants to local public agencies and non-profit developers to assist individuals and households through deferred-payment loans. The funds provide direct, forgivable loans to assist development projects involving multiple ownership units, including single-family subdivisions.

This bill:

1) Provides that any funds approved, reserved, or allocated by HCD for the purpose of providing a loan under any multifamily housing program may, at the option of the borrower, be used for any of the following:

   a) Construction financing;

   b) Permanent financing; and

   c) A portion for construction financing, with the balance for permanent financing.

2) Provides that if a borrower requests a construction loan, all of the following shall apply:

   a) HCD shall deposit the loan funds with the first lender at or before the closing of the first lender's construction loan;

   b) Pursuant to guidelines to be adopted by HCD after consultation with stakeholders, the first lender shall disburse the HCD funds to the borrower during the construction period until the HCD funds are fully disbursed,

except that the guidelines may require up to 10% of the HCD loan amount to be retained until construction completion; and

c) The first lender shall disburse the balance of the first lender's construction loan once all of HCDs funds are fully disbursed.

Background

In recent years, the state has created several programs to finance affordable housing, in addition to its flagship program, MHP. In order to make these projects pencil, most housing developers also apply for 4% or 9% federal low-income housing tax credits administered by the Treasurer's office through the Tax Credit Allocation Committee (TCAC). In addition, credits must be coupled with tax-exempt bonds, also administered by the Treasurer's office through the California Debt Limit Allocation Committee (CDLAC). As a result, developers must navigate a web of overlapping eligibility criteria and application deadlines, which often results in project delays as developers work to line up various funding sources.

According to a March 2020 report by the Terner Center for Housing Innovation at UC Berkeley, most (89%) of projects built with 9% tax credits between 2008-2019 relied on four or more sources of funding, with 80% of projects combining four to eight funding sources. On average, each additional source of funding is associated with an increased cost of $6,400 per unit. The added costs of having to apply to multiple programs in multiple funding rounds include preparation of additional applications, review, and coordination of additional loan documents, and property holding costs due to time delays between application cycles.

The state has been working in recent years to align its housing programs. MHP either prioritizes 4% tax credits or requires them, depending on the type of project. TCAC, CDLAC, and the California Housing Finance Agency (CalHFA) have implemented a joint application for the Mixed Income Program, which helps finance construction of new affordable multifamily housing projects (funded by SB 2, Atkins, 2017). Budget trailer bill legislation last year (AB 83) directed HCD, TCAC, and CDLAC to "develop a coordinated system to manage available state funding and private activity bonds to deliver the maximum number of units as efficiently as possible to very low and extremely low income households."

Additionally, last year, AB 434 (Daly, Chapter 192, Statutes of 2020) required HCD to streamline multiple funding programs by aligning six rental housing

programs with the MHP to implement a single application and scoring system for making coordinated awards under all seven programs.

Comments

1) *Author's Statement.* "By reducing the cost of development, California can produce more affordable homes to help address the housing needs of low-income families. By funding HCD's loans during the construction period, AB 1423 allows developers to obtain smaller private construction loans and save hundreds of thousands of dollars in construction interest expense per development. The bill further ensures that HCD will see no additional workload by maintaining the private construction lender's current role of construction monitor and approver of draws."

2) *HCD funding.* HCD administers multiple programs, both federal and state, that provide loans to developers to rehabilitate, preserve, or construct affordable rental housing; these programs are structured as permanent financing. Developers receive an award of funding based on a proposed project and use that commitment to secure a construction loan to start construction. State law is silent on whether HCD makes its loan funds available during the construction phase of a project or only during conversion to permanent financing. As a matter of practice, HCD has chosen the latter. This decision requires affordable housing developers to obtain larger construction loans and pay hundreds of thousands of dollars in additional interest expense per development.

   This bill significantly reduces construction period interest expenses by allowing developers to receive HCD loan funds during the construction period. Developers would still need to obtain a private construction loan, albeit significantly smaller, and the private construction lender would continue to monitor construction progress and approve allocations. HCD will establish guidelines to determine how much funding to provide at a time during the construction period, in order to ensure that the State can rely on the private construction lender's due diligence.

   The California Housing Partnership, the sponsor of this bill, has calculated that this bill will result in the construction of an additional 500 affordable homes over the next ten years within existing funding. The impact will be even greater at higher levels of state investment and could lead to hundreds of millions of dollars in additional resources, since each unit of housing currently requires considerable subsidy. Under this bill, developers would have discretion to

request either a construction loan, permanent financing, or a combination of both. Lastly, this bill furthers HCD's efforts to modernize and improve the impact of the state's investment in affordable housing.

Related/Prior Legislation

AB 434 (Daly, Chapter 192, Statutes of 2020) aligned six rental housing programs within MHP to enable HCD to implement a single application and scoring system for making coordinated awards under all seven programs, starting on January 1, 2022.

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

According to the Senate Appropriations Committee:

- HCD estimates costs of approximately $5.9 million annually for a total of 30 PY of staff to administer a process that allows applicants to use funds for construction financing. HCD staff would develop and adopt guidelines, interface with applicants and first lenders, create loan documents, issue loan terms, review financing agreements, create a process to disburse funds, track disbursement, oversee construction activities, authorize transfers, and monitor compliance. Actual costs would depend upon implementation structure, the number of funding recipients who elect to receive construction financing, complexity of loan closing negotiations, and participation of first lenders. Ongoing costs would also fluctuate depending on demand for construction financing. (General Fund)

SUPPORT: (Verified 8/26/21)

Bridge Housing (co-source)
California Housing Partnership (co-source)
California Apartment Association
California Housing Consortium
Corporation for Supportive Housing
Eden Housing
MidPen Housing Corporation
Non-profit Housing Association of Northern California

OPPOSITION: (Verified 8/26/21)

None received

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
8/31/21 10:10:38

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

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

THIRD READING

Bill No: AB 1535
Author: Committee on Business and Professions
Amended: 8/26/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 7/12/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Veterinary Medical Board: application and examination: discipline and citation

SOURCE: Author

DIGEST: This bill makes a number of substantive and technical changes to the Veterinary Medical Board (VMB) as a result of the joint sunset review oversight process including, elimination of the state licensure examination, revising and recasting the provisions of the Veterinary Assistant Controlled Substance Permit (VACSP), requiring a registered veterinary technician (RVT) veterinary assistant and a VACSP permit holder to wear a name tag, revising and recasting various fees and increasing the fee for a premises permit, authorizing specified shelter employees and volunteers to provide specified vaccinations and medications to shelter animals, with specified training, requiring additional information on application for a premises permit, extending the operation of the VMB until January 1, 2026, and makes numerous other technical and clarifying changes the Veterinary Practice Act (Act).

ANALYSIS:

This bill:

1) Deletes the requirement that an applicant for registration as an RVT take and pass a California-specific examination, and deletes the fee for an examination, as specified.

2) Revises and recasts the requirements for an individual to obtain a license to practice veterinary medicine, as specified.

3) States that if an applicant fails to complete their application within one year after it has been filed, the application is considered abandoned and the fee forfeited, and an application submitted subsequent to the abandonment of the former application is treated as a new application, and any applicant is required to notify the VMB of any changes in mailing or employment address that occur after filing the application.

4) Eliminates the requirement that a veterinarian complete a California state board examination, and makes conforming changes to provisions related to out-of-state, temporary, and university licenses.

5) Revises the definition of premises to include the location of operation where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced.

6) Revises the application requirements for the owner and operator of a veterinary premise, as specified.

7) Specifies that if the owner or operator submitting a premises registration application is a veterinary corporation, the application must include the titles of each officer director, or shareholder.

8) Specifies that if the owner or operator is a corporation or other artificial legal entity other than a veterinary corporation, the application shall set forth the names and titles of all owners, officers, general partners, if any, and the agent for service of process.

9) States that premises registration is non-transferrable, and that any changes in owners, operators, officers, directors, shareholders, general partners, agent for

service of process be reported to the VMB within 30 days after any change.

10) Increases the fee for a premises application from $400 to $500 and increase the renewal to $525.

11) Revises and recasts the VMB's authority to deny, suspend, or revoke the registration of a veterinary premises if any of the additional following occurs: the premises registration holder is not licensed and has practiced, influenced, or extended, or exerted control over the provision of veterinary medicine, veterinary dentistry, veterinary surgery, and the branches thereof by the premises registration holder.

12) Prohibits the VMB from renewing a premises registration if there is no licensee manager associated with the premises.

13) Authorizes the VMB to deny, suspend, or revoke, registration of the veterinary premises for unlicensed practice of veterinary medicine, veterinary dentistry or veterinary surgery by the premises registration holder.

14) Prohibits a premises registration holder who is not a licensed veterinarian from interfering with, control, or otherwise direct the professional judgement of any California licensed veterinarian or RVT, and specifies that the VMB may require information related to employment contracts between the premises registration holder, and a California-licensed veterinarian or RVT, as deemed necessary by the VMB.

15) Replaces the term "diversion" with "wellness".

16) Authorizes the VMB president to suspend any wellness evaluation committee member, as specified.

17) Revises the fees required for participation in the wellness program, as specified.

18) Clarifies the process and timeline for contesting citations issued by the Board, as follows, as specified

19) Permits the VMB to take enforcement action against an individual for making any statement, claim, or advertisement that the licensee or registrant is a veterinary specialist or board certified unless they are certified by an American Veterinary Medical-Association Recognized Veterinary Specialty Organization

or for exercising, control over, interfering with, or attempting to influence the professional judgement of another California-licensed veterinarian or RVT, as specified.

20) Revises and recasts various fees for licensure, registration and permits, as specified.

21) Adds the following exemptions to the practice of veterinary medicine for care to animals lawfully deposited with or impounded by a shelter that is not registered with the VMB, as specified:

    a) Administering preventative or prophylactic nonprescription vaccinations to the animal pursuant to protocols written by a veterinarian, for preventing the spread of communicable diseases, when the person has received proper training in the administration of the nonprescription preventative or prophylactic vaccinations.

    b) Administering nonprescription medications to the animal pursuant to protocols written by a veterinarian, for the control or eradication of internal or external parasites, when the person has received proper training in the administration of the nonprescription medication for the control or eradication of parasites.

    c) Administering medication prescribed by a veterinarian to the animal when the shelter has received a written treatment plan from a veterinarian, when the shelter has a dispensing protocol in place for tracking dispensed prescribed medication, and when the person has received proper training in the administration of prescription medication.

22) Defines "proper training" for purposes of 21) above as completing a training curriculum provided by a veterinarian and includes, but not limited to, four hours of training that includes an overview of intake procedures and preventative medicine, recognizing when an animal is required to be seen by a veterinarian, prescription and non-prescription medication, humane animal restraint techniques, vaccination injection methods, and procedures and documentation.

23) Defines "shelter" to mean a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society shelter that is not registered with the VMB, as specified.

24) Requires a shelter providing care as specified in 21) above to report to the VMB any adverse event resulting from the care provided, as specified.

25) Requires, beginning January 1, 2023, RVTs, veterinary assistants, and veterinary assistant controlled substance permit holders to wear a nametag, as specified.

26) Extends the operation of the VMB and its authority to appoint an Executive Officer by four years, until January 1, 2026, and makes numerous other technical, conforming and clarifying changes.

Background

The Sunset Review Process. This bill makes changes to the VMB based on issues identified in the VMB's sunset review report, the Staff Committee Background Paper and those identified during the VMB's sunset review hearing, held on March 3, 2021. The following are some of the issues pertaining to VMB along with background information concerning the particular issue. Recommendations are made by Committee staff regarding issue areas that need to be addressed. The Background paper raised the following issues:

Issue #2 Registered Veterinary Technicians. This bill requires that all RVTs, veterinary assistants, and VACSP holders wear a nametag with specified information, except when treating an animal patient. This bill clarifies the education or experience requirements necessary for a RVT license. In addition, this bill reduces the fees for RVT application and renewal to $225.

Issue # 10: Abandoned Applications. To improve efficiency in application processing, this bill provides that if an applicant fails to complete the application within one year after filing, the application will be considered *abandoned* and the application fee forfeited. Additionally, this bill requires an applicant to notify the board of any changes in mailing or employment address that occur after filing the application.

Issue#12: Elimination of the State Licensure Examination. As currently drafted, this bill would restructure veterinarian examination requirements, and eliminate the currently utilized state examination, in favor of the single NAVLE to avoid unnecessary duplication. BPC Section 4848 currently specifies a process for out-of-state licensees to have their state examination requirements waived. Because of the proposed elimination of the state licensing examination for applications, this

bill, revises the requirements for out-of-state veterinarians seeking licensure in California. For an applicant who passed the NAVLE more than five years from the date of the application, the applicant will need to satisfy one of three requirements: either (1) retake and pass the NAVLE; (2) submit proof of having practiced clinical veterinary medicine for a minimum of two years and completed a minimum of 2,500 hours of clinical practice in another state, Canadian province, or United States territory within the three years immediately preceding filing an application for licensure in this state; or (3) complete the minimum continuing education requirements for the current and preceding year.

Issue #14: Shelter Care. Animals shelters are only a repository for the animals, the animals are not "owned" by the shelter, and therefore do not meet any of the exemptions to the practice of veterinary medicine for animal owners. This bill would specify that treatments such as over-the-counter flea and tick medications, certain vaccinations, and providing medications prescribed by a veterinarian are permitted services in a non-registered shelter when performed by an employee or volunteer upon receiving the appropriate training from a licensed veterinarian. This bill defines those shelters in which these exemptions will be authorized.

Issue #20: Corporate Practice of Veterinary Medicine. In 2017, the VMB received information from veterinarians that general corporations that own or operate veterinary premises maybe using employment contracts to control the provision of veterinary medical care to animal patients. To help address the VMB's concerns related to corporate ownership and potential undue influence, this bill requires veterinary corporations to be identified on a premises permit application, and prohibits a premise registration holder that is not a California-licensed veterinarian to interfere with, control, or otherwise direct the professional judgment of any California licensed veterinarian or registered veterinary technician. In addition, this bill authorizes the VMB obtain any information, including, but not limited to, employment contracts between the premises registration holder and a California-licensed veterinarian or RVT as deemed necessary.

Issue #27 Premises Registration. An owner or operator of a veterinary premise in not required to be licensed as a Veterinarian or other veterinary health care provider. This bill (1) clarifies that veterinary premises refers to the location of operation where veterinary medicine, dentistry and surgery is being practiced rather than the real estate; (2) requires that any owner, operator, officers, directors, shareholders, general partners be identified on a premises application and any changes be reported to the VMB within 30 days; and, (3) grants the VMB with

specified enforcement authority, including the ability to deny, suspend, or revoke premises registration on the basis of a premises registration holder's criminal and disciplinary history. In addition, this bill revises the fee for a premises registration and renewal and increases the fees by $100 and $125 respectively.

Issue #29 *Diversion/Wellness Evaluation Committee.* This bill changes the name of the Diversion Evaluation Committee to the Wellness Evaluation Committee. As noted by the VMB, there is currently is no provision for suspending or dismissing committee members without the full Board during public session. This bill will permit the president of the VMB to suspend any wellness committee member pending an investigation into allegations of existing alcohol or drug addiction. If, after investigation, there were evidence of an alcohol or drug addiction relapse, the board president would be authorized to remove the member without input from the full Board.

Issue #31. Citations. This bill seeks to provide clarification on the process and timelines for citations.

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

According to the Senate Committee on Appropriations:

1) "Ongoing annual costs of approximately $6.91 million (Veterinary Medical Board Contingent Fund) and 30.8 positions to support the continued operation of the Veterinary Medical Board's licensing and enforcement activities.

2) The Veterinary Medical Board notes:

   - Unknown decrease in revenue as a result of the elimination of the examination and discontinuation of the temporary license applications. The Board estimates revenue loss from the elimination of the examination would be approximately $192,000. The Board anticipates revenue loss from the discontinuation of temporary licenses to be offset by individuals applying for a full reciprocity license.

   - Unknown increase in revenue from additional permit and renewal fees. The Board estimates a revenue increase of approximately $205,000 from the new initial permit fee and increased renewal fee.

   - Savings of approximately $63,000 due to the elimination of specified Board contracts, which may be redirected to other areas as needed.

3) The Office of Information Services (OIS) anticipates information technology costs of approximately $22,500 to create a new initial transaction, update existing transactions to allow manual override, remove the California state board examination, add new enforcement codes, and retire temporary license types. OIS costs may be absorbed by redirection of existing maintenance resources."

SUPPORT: (Verified 8/27/21)

Veterinary Medical Board

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: The Veterinary Medical Board writes in support and notes, "AB 1535 provides necessary changes to the Act that, if enacted, will improve processes for applicants, licensees, consumers, and overall Board operations. The Board has spent the last two years evaluating its statutes and regulations to eliminate unnecessary barriers to licensure, streamline the licensing process, and improve consumer protection mechanisms. This bill is the product of that in-depth review."

ASSEMBLY FLOOR: 78-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/31/21 9:48:07

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

SENATE RULES COMMITTEE AB 1586
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1586
Author: Committee on Governmental Organization
Introduced: 3/17/21
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: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/27/21 (Consent) - See last page for vote

SUBJECT: Alcoholic beverage control: on-sale general licenses: counties

SOURCE: Author

DIGEST: This bill revises a current authorization in law that authorizes the Department of Alcoholic Beverage Control (ABC) to issue four additional new original on-sale general licenses for bona fide public eating places in a county where the population is less than 7,000 and the major economy of the county is dependent on continual use of that county's recreational facilities by additionally requiring that the economy of that county also be dependent on tourism.

ANALYSIS:

Existing law:

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

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

3) Caps the number of new off-sale general licenses issued by the Department of ABC at one for every 2,500 inhabitants of the county where the establishment is located and at one for every 2,000 inhabitant for an on-sale license.

4) Defines an "on-sale" license as authorizing the sale of all types of alcoholic beverages, namely, beer, wine, and distilled spirits, for consumption on the premises. An "off-sale" license authorizes the sale of all types of alcoholic beverages for consumption off the premises in original, sealed containers.

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

6) Authorizes the Department of ABC to issue four additional new original on-sale general licenses for "bona fide public eating places" for premises that have a seating capacity for 100 or more diners in a county where the inhabitants number less than 7,000 and the major economy of the county is dependent on continual use of that county's recreational facilities. Existing law prohibits a license of this type from being transferred from one county to another. As of 2021, only Sierra County and Alpine County have populations less than 7,000.

This bill:

1) Revises a current authorization in law that authorizes the Department of ABC to issue four additional new original on-sale general licenses for bona fide public eating places in a county where the population is less than 7,000 and the major economy of the county is dependent on continual use of that county's recreational facilities by additionally requiring that the economy of that county also be dependent on tourism.

2) Clarifies that these licenses are prohibited from being transferred to any premises that do not qualify under the provisions pursuant to which those licenses are issued.

Comments

Purpose of the bill. According to the author's office, "this bill will clarify in law that the special on-sale general license, as defined, would not be eligible to be transferred to another premises in the designated county, unless it meets the requirements as stated in current law, when the Department of ABC issued the original license. Additionally, this bill would require that the economy of a county in which the licenses described above may be issued shall also be dependent on tourism."

Current Authorization. Current law authorizes the Department of ABC to issue up to four additional new original on-sale general licenses for a bona fide public eating places in any county where the population is less than 7,000 and where the major economy of that county is dependent on the continual use of that county's recreational facilities. Given the very low 7,000 inhabitant limit, the only counties that this applies to are the counties of Sierra and Alpine. Existing law, prohibits a license issued under this authority to be transferred from one county to another.

This bill additionally requires the economy of these counties to also be dependent upon tourism. It does not appear that adding this new requirement would impact the ability of the Department of ABC to issue any new licenses in any county. This bill also clarifies that a license issued under this authorization shall not be transferred to any premise that does not qualify under that authorization.

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

If the Department of ABC receives more applications than there are licenses available, a public drawing is held. To participate in such a drawing, an applicant must have been a resident of California for at least 90 days prior to the date of the scheduled drawing. Successful drawing participants will be notified that they have 90 days to complete a formal application for their specific premises. The cost of these new licenses is $15,835 each.

Individuals seeking to open a full-service restaurant with a bar or cocktail menu who fail to obtain a liquor license through this process typically must locate an existing licensed owner willing to sell their license. Usually, that is done by

contacting a liquor license broker. The cost of obtaining a license on the secondary market is driven by supply and demand and can reach upwards of $400,000.

Related/Prior Legislation

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

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

AB 471 (Ting, Chapter 442, Statutes of 2017) authorized the Department of ABC to issue no more than five new original neighborhood-restricted special on-sale general licenses per year, until a total of 30 licenses are issued, to premises located in any of the census tracts, as specified, within the City and County of San Francisco. Additionally, the bill authorized the Department of ABC to issue a maximum of 20 new original on-sale general licenses, over a four-year period, in the County of Napa, as specified.

SB 1285 (Leno, Chapter 790, Statutes of 2016) authorized, beginning January 1, 2017, the Department of ABC to issue no more than a total of five new original "neighborhood-restricted" special on-sale general licenses, for premises located within specified City and County of San Francisco neighborhoods, subject to certain requirements and restrictions.

AB 1670 (Dodd, Chapter 347, Statutes of 2016) authorized ABC to issue a maximum of five new original on-sale general licenses, over a one-year period, for bona fide public eating-places in the County of Napa, as specified.

AB 1558 (Mathis, Chapter 256, Statutes of 2016) authorized ABC to issue, over a two-year period, five additional new on-sale general licenses for restaurants, with a seating capacity of 50 or more, in Inyo County.

AB 461 (Achadjian, Chapter 110, Statutes of 2013) authorized ABC to issue no more than a total of five new original on-sale general licenses, over a three-year period, for bona fide public eating-places in the County of San Luis Obispo.

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

SUPPORT: (Verified 7/19/21)

None received

OPPOSITION: (Verified 7/19/21)

None received

ASSEMBLY FLOOR: 75-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood
NO VOTE RECORDED: Maienschein, Mullin, Rendon

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/18/21 14:17:35

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

SENATE RULES COMMITTEE AB 1589
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1589
Author: Committee on Governmental Organization
Amended: 6/16/21 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 7/6/21
AYES: Dodd, Nielsen, Allen, Archuleta, Becker, Borgeas, Bradford, Glazer, Hueso, Jones, Kamlager, Melendez, Portantino, Rubio, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 75-0, 5/27/21 (Consent) - See last page for vote

SUBJECT: Alcoholic beverages: appeals: tied-house restrictions

SOURCE: Author

DIGEST: This bill authorizes the electronic filing of appeals to the Alcoholic Beverage Control Appeals Board (Board) and electronic delivery of final orders by the Board. Additionally, this bill clarifies that a licensed retailer is not obligated to buy or sell the alcoholic beverage products of a distilled spirits wholesaler when selling marketing data to that wholesaler.

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) Establishes the Board to review the Department of ABC's decisions ordering penalty assessments and issuing, denying, transferring, suspending, or revoking a license, as specified.

4) Allows an aggrieved party to file an appeal with the Board, so long as the appeal is received in the principal office of the Board or, if mailed, registered by the United States Post Office on or before the 10th day after the last day on which reconsideration of the decision could be ordered.

5) Requires a final order by the Board to fix a time and place for argument if a party to an appeal requests the right to appear before the Board.

6) Provides an exception, from tied-house restrictions, that permits certain licensees, or any agents of those licensees, to conduct market research and, in connection with that research, to purchase specific data from off-sale licensed retailers, subject to the specified limitations, including that no licensed retailer shall be obligated to purchase or sell the alcoholic beverage products of the purchasing licensee.

This bill:

1) Authorizes the electronic filing of appeals to the Board and electronic delivery of final orders by the Board to a party and make other conforming changes.

2) Provides that the Board need only fix a date and time for oral argument if the party requests it.

3) Clarifies that a licensed retailer is not obligated to buy or sell the alcoholic beverage products of a distilled spirits wholesaler when selling marketing data to that wholesaler.

Background

Purpose of the bill. According to the author's office, "this proposal would permit appellants to file appeals electronically. It further allows the Board the option to issue its decisions electronically. The option of mail would still be permitted. An

electronic option would make the appeals process more user-friendly and cost efficient for licensees and members of the public who want to exercise their right to appeal."

In addition, the author's office states that, "under existing law, certain alcoholic beverage licensees, such as alcohol manufacturers, winegrowers, rectifiers, and distillers, can conduct market research, which can involve buying data on sales and purchases of alcoholic beverage products from off-sale licensed retailers. However, there are limitations on these licensees buying such data from these retailers. One such limitation is that a retailer is not obligated to buy the alcohol of the buyer of the marketing data. A distilled spirits wholesaler is currently one of the licensees exempt from the general prohibition but is not one of the entities prohibited from obligating the licensed retailer to purchase or sell the products of the licensee conducting the market research. AB 1589 aims to fix this oversight in current law by including a distilled spirits wholesaler in the provision prohibiting a licensed retailer from being obligated to purchase or sell alcoholic beverages of the licensee conducting the research."

ABC Appeals Board. The Board provides quasi-judicial administrative review of decisions of the Department of ABC. The questions that may be considered by the Board are limited by the California Constitution and by statute. The Board determines appeals solely on the record of the Department of ABC and any briefs filed by the parties. No additional evidence may be received by the Board. However, the parties to appeal may present oral argument during the Board's monthly hearings.

The Board issues written decisions with order affirming, reversing, and/or remanding the Department of ABC's decisions. Judicial review of the Board may be obtained by filing a petition for writ of review with the California Supreme Court or the Court of Appeal.

The Board has utilized a paper and mail-based process since it was established over 60 years ago. Current law allows licensees 40 days from the date of the Department of ABC's decision to file a written appeal by mail. An appeal is deemed filed on the day it is received in the Board's office. Current law also requires the Board's decisions to be mailed to all parties. Email of appeals and decisions does not satisfy the Board's statutory requirements.

This bill authorizes the electronic filing of appeals to the Board and electronic delivery of final orders by the Board to a party and make other confirming changes.

Distilled spirits wholesaler license. A distilled spirits wholesaler license, or a Type 18 alcohol license is issued to those individuals who conduct wholesale distribution of distilled spirits only. The requirements to qualify for this type of license are outlined in the California Code of Regulations. Qualifications include, maintaining warehouse space either owned or leased by the licensee or dedicated to his or her use in a public warehouse. Such space is required to sufficient to store at one time either a stock of distilled spirits equal to 10% or more of his annual case volume of distilled spirits sales to retailers, or a stock of distilled spirits whose cost of acquisition is one hundred thousand dollars or more.

According to the Department of ABC's Internet Web site, there are currently 925 distilled spirits wholesaler licenses in the State of California.

Related/Prior Legislation

AB 1429 (Governmental Organization, Chapter 567, Statutes of 2001) authorized, among other things, various licensed entities to conduct market research and, in connection with that research, to purchase from licensed on-sale retailers data, regarding purchases and sales of alcoholic beverage products, at the customary rates that those retailers sell similar data for nonalcoholic beverages products.

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

SUPPORT: (Verified 8/17/21)

None received

OPPOSITION: (Verified 8/17/21)

None received

ASSEMBLY FLOOR: 75-0, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina,

Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood
NO VOTE RECORDED: Maienschein, Mullin, Rendon

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/19/21 11:19:16

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

SENATE RULES COMMITTEE ACR 7
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 7
Author: Salas (D), et al.
Introduced: 12/14/20
Vote: 21

ASSEMBLY FLOOR: 73-0, 8/19/21 (Consent) - See last page for vote

SUBJECT: Gold Star Mothers' and Families' Day

SOURCE: Author

DIGEST: This resolution proclaims September 26, 2021, as Gold Star Mothers' and Families' Day in California.

ANALYSIS: This resolution makes the following legislative findings:

1) The history of Gold Star Families began in the United States shortly after World War I to provide support for mothers who lost sons or daughters in the war.

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

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

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

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

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

This resolution proclaims September 26, 2021, as Gold Star Mothers' and Families' Day in California.

Related/Prior Legislation

SR 87 (Grove, 2020) would have proclaimed September 27, 2020, as Gold Star Mothers' and Families' Day in California. The resolution died in the Senate Rules Committee.

ACR 150 (Salas, 2020) would have proclaimed September 27, 2020, as Gold Star Mothers' and Families' Day in California. The resolution died in the Assembly Rules Committee.

SCR 54 (Grove, Resolution Chapter 153, Statutes of 2019) proclaimed September 29, 2019, as Gold Star Mothers' and Families' Day.

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

SUPPORT: (Verified 8/30/21)

None received

OPPOSITION: (Verified 8/30/21)

None received

ASSEMBLY FLOOR: 73-0, 8/19/21
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, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, 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, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Rendon

NO VOTE RECORDED: Davies, Gabriel, Holden, Irwin, Robert Rivas, Wood

Prepared by: Karen Chow / SFA / (916) 651-1520
9/1/21 16:22:52

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

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

THIRD READING

Bill No: ACR 10
Author: Seyarto (R), et al.
Amended: 8/16/21 in Assembly
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 8/23/21

SUBJECT: California Firefighter Appreciation Month and California Firefighters Memorial Day

SOURCE: Author

DIGEST: This resolution proclaims the month of September 2021 as California Firefighter Appreciation Month and September 25, 2021, as California Firefighters Memorial Day.

ANALYSIS: This resolution makes the following legislative findings:

1) The California Firefighters Memorial, located on the grounds of the State Capitol, serves to honor and commemorate California firefighters who unwaveringly serve our great state with pride, courage, and honor.

2) The California Firefighters Memorial is also a symbol of gratitude and appreciation to the men and women of the fire service who put their lives on the line each day to protect the people, property, and beauty of California.

3) Each of the over 1,400 names engraved on the brushed limestone walls of the California Firefighters Memorial serves as a timeless tribute to the finest and bravest of our state who have made the ultimate sacrifice as firefighters.

4) The California Firefighters Memorial is the only state monument capturing the names in perpetuity of those courageous firefighters in California who have put service to our great State of California above all else.

5) Many of the fallen firefighters whose names adorn the California Firefighters Memorial died either under tragic, traumatic circumstances or suffered and

ultimately succumbed to job-caused diseases, such as occupational cancer, as a result of the hazardous nature of their work, including routine exposure to toxins.

6) This year firefighters are facing the life-threatening COVID-19 pandemic where they have again demonstrated their commitment to service above self in the face of increased health and safety risks for themselves and their families.

7) On September 25, 2021, hundreds of firefighters and their families, along with their fellow Californians, will honor the fallen in a moment of tribute for the 19th Annual California Firefighters Memorial Ceremony honoring the men and women of the fire service who have selflessly given their lives to protect California.

This resolution proclaims the month of September 2021 as California Firefighter Appreciation Month and September 25, 2021, as California Firefighters Memorial Day, and urges Californians to always remember the firefighters who have given their lives in the line of duty and express their appreciation to those firefighters who continue to protect our families.

Comments

According to the author,

> California's wildfires have been increasing in frequency and intensity for the past several years and have demanded more from our frontline fire responders. These heroic men and women, we call firefighters, place their lives on the line on each fire response mission. Braving the most inexplicable scenarios and extreme conditions to save lives, these firefighters are owed a debt by our communities that we can never repay. These heroes serve and often go home to suffer through health problems caused by their service. Therefore, it is all too fitting that we set aside the month of September to honor these men and women and recognize their fallen at the Firefighter Memorial on September 25th.

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

SUPPORT: (Verified 9/1/21)

None received

OPPOSITION: (Verified 9/1/21)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
9/1/21 16:22:51

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

SENATE RULES COMMITTEE ACR 13
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 13
Author: Seyarto (R) and Mathis (R), et al.
Introduced: 1/21/21
Vote: 21

ASSEMBLY FLOOR: 73-0, 8/19/21 (Consent) - See last page for vote

SUBJECT: Tomb of the Unknown Soldier

SOURCE: Author

DIGEST: This resolution commemorates the 100th Anniversary of the Tomb of the Unknown Soldier at Arlington National Cemetery.

ANALYSIS: This resolution makes the following legislative findings:

1) The Tomb of the Unknown Soldier is located at Arlington National Cemetery and has, since 1921, provided a final resting place for the remains of an unidentified United States service member from World War I and, subsequently, remains from later conflicts.

2) In December 1920, New York Congressman and World War I veteran Hamilton Fish Jr. proposed legislation "to bring home the body of an unknown American warrior who in himself represents no section, creed, or race in the late war and who typifies, moreover, the soul of America and the supreme sacrifice of her heroic dead".

3) The remains of an unknown service member from World War I were returned from France and on November 11, 1921, were carried in a procession through Washington, D.C., to Arlington National Cemetery where a state funeral was held before the remains were interred in the Tomb of the Unknown Soldier.

4) The Tomb sarcophagus is decorated with three wreaths on each side panel. On the front, three figures represent Peace, Victory and Valor. The back features the inscription: "Here rests in honored glory an American soldier known but to God".

5) In August 1956, President Dwight D. Eisenhower approved the selection and interment of the remains of unknown service members from both World War II and Korea. The remains arrived in Washington, D.C., on May 28, 1958, and lay in state in the United States Capitol before they were interred in crypts beside the World War I sarcophagus.

6) On Memorial Day 1984, President Ronald Reagan presided over the interment ceremony for the remains of an unknown service member from the Vietnam War, but the remains were subsequently positively identified using DNA testing and exhumed. The crypt designated for the Vietnam War Unknown remains vacant and was rededicated to honor all missing service members from the Vietnam War.

7) According to the United States Defense POW/MIA Accounting Agency, more than 81,900 Americans remain missing from World War II, the Korean War, the Vietnam War, the Cold War, and the Gulf War and other conflicts.

8) Of those missing, more than 6,300 are from California, including 5,619 from World War II, 588 from the Korean War, 162 from the Vietnam War, and one from the 1986 strike over Libya.

This resolution commemorates the 100th anniversary of the Tomb of the Unknown Soldier at Arlington National Cemetery.

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

SUPPORT: (Verified 8/30/21)

California Professional Firefighters

OPPOSITION: (Verified 8/30/21)

None received

ASSEMBLY FLOOR: 73-0, 8/19/21
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, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, 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, Rodriguez, Blanca Rubio, Salas,

Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Rendon
NO VOTE RECORDED: Davies, Gabriel, Holden, Irwin, Robert Rivas, Wood

Prepared by: Melissa Ward / SFA / (916) 651-1520
9/1/21 16:22:51

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

SENATE RULES COMMITTEE ACR 37
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 37
Author: Seyarto (R), et al.
Introduced: 3/1/21
Vote: 21

ASSEMBLY FLOOR: 73-0, 8/19/21 (Consent) - See last page for vote

SUBJECT: Suicide Prevention Week

SOURCE: Author

DIGEST: This resolution proclaims the week of September 5, 2021, through September 11, 2021, as Suicide Prevention Week in California.

ANALYSIS: This resolution makes the following legislative findings:

1) Designating the second week of September as "Suicide Prevention Week in California" would overlap with World Suicide Prevention Day, which occurs on September 10, 2021, and is recognized internationally and supported by the World Health Organization.

2) A great number of suicides are preventable.

3) Most suicidal people display warning signals of their intentions; however, others are often unaware of these signals or unsure what to do about them.

4) The stigma associated with mental illness and suicide works against suicide prevention by discouraging persons at risk for suicide from seeking lifesaving help and further traumatizes survivors of suicide.

5) The State of California recognizes the efforts of organizations such as the American Association of Suicidology that are dedicated to reducing the frequency of suicide attempts and deaths and the pain of survivors of suicide through educational programs, research programs, intervention services, and bereavement services.

6) Suicide Prevention Week in California is a time to acknowledge the tragic loss of individuals who have committed suicide and to commemorate the actions of organizations and individuals working to prevent suicide and raise awareness of suicide as a public health issue.

This resolution proclaims the week of September 5, 2021, through September 11, 2021, as "Suicide Prevention Week in California."

Related/Prior Legislation

ACR 199 (Choi, 2020) would have proclaimed the week of September 6, 2020, through September 12, 2020, as Suicide Prevention Week in California. The resolution died at the Assembly Desk.

ACR 255 (Harper, Res. Chapter 209, Statutes of 2018) proclaimed the week of September 9, 2018, through September 15, 2018, as Suicide Prevention Week in California.

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

SUPPORT: (Verified 8/31/21)

None received

OPPOSITION: (Verified 8/31/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "ACR-37 seeks to recognize that suicide is a public health problem and that suicide prevention is a statewide responsibility. With an average of 123 people committing suicide each day nation-wide, California is not alone in attempting to curve the problem with amazing programs and outreach to save lives. This resolution seeks to simply bring attention to suicide prevention in correlation with the national prevention week."

ASSEMBLY FLOOR: 73-0, 8/19/21
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, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, 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, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Rendon

NO VOTE RECORDED: Davies, Gabriel, Holden, Irwin, Robert Rivas, Wood

Prepared by: Karen Chow / SFA / (916) 651-1520
9/1/21 16:22:50

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

SENATE RULES COMMITTEE ACR 98
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 98
Author: Aguiar-Curry (D), et al.
Amended: 8/23/21 in Senate
Vote: 21

ASSEMBLY FLOOR: 73-0, 8/19/21 (Consent) - See last page for vote

SUBJECT: Public health: Human Papillomavirus, screenings, and vaccinations

SOURCE: Author

DIGEST: This resolution designates the month of August 2021 as "HPV-Attributable Cancers, Screening, and Vaccination Awareness Month" in the State of California; and encourage all Californians, the State Department of Public Health, and the State Department of Health Care Services to observe the month and appropriate activities that support prevention, including promoting screening and educational outreach to all eligible Californians, increasing the awareness of HPV-attributable cancer and prevention measures within the medical and public health community, and implementing programs to raise awareness about the causes and symptoms of, and prevention measures for, HPV-attributable cancers.

ANALYSIS: This resolution makes the following legislative findings:

1) Human Papillomavirus ("HPV") is the leading cause of cervical cancer and oropharyngeal (throat) cancers. HPV is linked with more than 90 percent of anal and cervical cancers, about 70 percent of vaginal, vulvar, and oropharyngeal cancers, and 60 percent of penile cancers.

2) HPV is estimated to cause nearly 36,000 cases of cancer in men and women every year in the United States. HPV vaccination can prevent more than 32,000 of these cancers from ever developing by preventing the infections that cause those cancers.

3) About 3,300 HPV-attributable cancer cases are diagnosed each year in California. That means approximately 10 percent of the nation's HPV-

attributable cancers occur among Californians, the results of which may include early death, poor quality of life, loss of productivity, and substantial health care costs.

4) Hispanic women have the highest risk of developing cervical cancer, about one and one-half times higher than non-Hispanic white and Asian/Pacific Islander women. African American women have the second highest risk of developing cervical cancer and are more likely to die of cervical cancer than any other group. These statistics underscore the importance of increased education within these communities.

5) The COVID-19 pandemic has severely disrupted routine vaccination and has specifically resulted in a concerning deficit for routine adolescent vaccinations such as HPV. Pre-pandemic, HPV vaccination generally lags other routine adolescent vaccinations, such as the meningitis vaccine, and the pandemic threatens to widen this gap. As of late 2020, there was a deficit of over 2,000,000 doses of HPV vaccine compared to 2019.

6) Data suggests our underserved populations are being disproportionally impacted by the pandemic. Emerging data indicates that recovery of routine vaccination for children insured through Medicaid and the State Children's Health Insurance Program is lagging behind children who are commercially insured, creating further disparities in vaccination coverage.

7) If not addressed, this trend could expose our community to vaccine-preventable diseases as well as associated illness, death, and certain cancers, and exacerbate existing disparities in care. As a result, there is a pressing need to ensure adolescents receive their wellness visits and receive past due or currently due routine vaccinations.

This resolution designates the month of August 2021 as "HPV-Attributable Cancers, Screening, and Vaccination Awareness Month" in the State of California; and encourage all Californians, the State Department of Public Health, and the State Department of Health Care Services to observe the month and appropriate activities that support prevention, including promoting screening and educational outreach to all eligible Californians, increasing the awareness of HPV-attributable cancer and prevention measures within the medical and public health community, and implementing programs to raise awareness about the causes and symptoms of, and prevention measures for, HPV-attributable cancers.

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

SUPPORT: (Verified 9/1/21)

None received

OPPOSITION: (Verified 9/1/21)

None received

ASSEMBLY FLOOR: 73-0, 8/19/21
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, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, 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, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Rendon
NO VOTE RECORDED: Davies, Gabriel, Holden, Irwin, Robert Rivas, Wood

Prepared by: Jonas Austin / SFA / (916) 651-1520
9/1/21 16:22:49

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

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

THIRD READING

Bill No: ACR 101
Author: Seyarto (R) and Rodriguez (D), et al.
Introduced: 8/16/21
Vote: 21

ASSEMBLY FLOOR: Read and adopted, 8/23/21

SUBJECT: California Emergency Preparedness Month

SOURCE: Author

DIGEST: This resolution declares the month of September 2021 as California Emergency Preparedness Month.

ANALYSIS: This resolution makes the following legislative findings:

1) Launched in 2004, National Preparedness Month is the Federal Emergency Management Agency's national annual preparedness outreach.

2) National Preparedness Month aims to educate and empower Americans during the month and throughout the year to prepare for and respond to all types of emergencies, including natural disasters and manmade emergencies.

3) California has experienced an uptick over the last decade in emergency situations that require individuals to prepare in advance. These disasters include rolling blackouts, wildfires, mudslides, and others that can leave Californians without power or foods for days.

4) In the last year, California has suffered 23 declared emergency situations, comprising 9,917 wildfires, dozens of blackouts, hundreds of earthquakes.

5) In response to emergencies and disasters, hundreds of thousands of people have been subject to mandatory evacuations.

6) It is more critical than ever before that Californians have a plan prior to experiencing these events. These plans should include access to adequate

shelter, reserves of food and water, backup power for communication devices, plans for pets, and access to transportation.

7) September is celebrated as National Preparedness Month.

This resolution proclaims the month of September 2021 as California Emergency Preparedness Month; and encourages Californians to acknowledge the importance of planning for emergencies to protect themselves and their families.

Comments

The author states, "Due to the prevalence of wildfires and recent natural disasters in the State of California, it is vital that residents prepare for emergencies and understand their local plans for disaster response. By spending a little bit of time understanding the protocols and resources that a community has for an emergency, California residents will be better prepared for disaster. This preparedness saves crucial time and therefore lives. It is important that we set aside the month of September to promote this preparedness to all Californians. In the last year, California has suffered wildfires, earthquakes, and blackouts. Emergency Preparedness Month provides an annual opportunity to educate and empower Californians to prepare for and respond to emergencies and to commend our first responders."

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

SUPPORT: (Verified 8/30/21)

None received

OPPOSITION: (Verified 8/30/21)

None received

Prepared by: Melissa Ward / SFA / (916) 651-1520
9/1/21 16:22:48

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