2021-22 SESSION

SENATE
THIRD READING PACKET

FRIDAY, SEPTEMBER 10, 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 Friday, September 10, 2021.

Note	Measure	Author	Location
+	SB 65	Skinner	Unfinished Business
+	SB 270	Durazo	Unfinished Business
RA	SB 310	Rubio	Unfinished Business
+	SB 311	Hueso	Unfinished Business
+	SB 320	Eggman	Unfinished Business
+	SB 323	Caballero	Unfinished Business
+	SB 428	Hurtado	Unfinished Business
+	SB 483	Allen	Unfinished Business
+	SB 510	Pan	Unfinished Business
+	SB 512	Min	Unfinished Business
+	SB 533	Stern	Unfinished Business
+	SB 570	Wieckowski	Unfinished Business
RA	SB 628	Allen	Unfinished Business
+	SB 686	Glazer	Unfinished Business
	SB 694	Bradford	Unfinished Business
+	SB 727	Leyva	Unfinished Business
	SB 784	Glazer	Unfinished Business
+	SB 800	Archuleta	Unfinished Business
+	SB 820	Committee on Governmental Organization	Unfinished Business
	SCR 60	Nielsen	Senate Bills - Third Reading File
	SR 52	Min	Senate Bills - Third Reading File
RA	SR 55	Portantino	Consent Calendar Second Legislative Day
	SR 58	Pan	Senate Bills - Third Reading File
	SR 59	Becker	Senate Bills - Third Reading File
	AB 41	Wood	Assembly Bills - Third Reading File
	AB 73	Robert Rivas	Assembly Bills - Third Reading File
	AB 89	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 124	Kamlager	Assembly Bills - Third Reading File
	AB 215	Chiu	Assembly Bills - Third Reading File
	AB 226	Ramos	Assembly Bills - Third Reading File
	AB 334	Mullin	Assembly Bills - Third Reading File
	AB 364	Rodriguez	Assembly Bills - Third Reading File
	AB 457	Santiago	Assembly Bills - Third Reading File
	AB 469	Reyes	Assembly Bills - Third Reading File
	AB 471	Low	Assembly Bills - Third Reading File
	AB 516	Megan Dahle	Assembly Bills - Third Reading File
	AB 670	Calderon	Assembly Bills - Third Reading File
	AB 680	Burke	Assembly Bills - Third Reading File
	AB 716	Bennett	Assembly Bills - Third Reading File
	AB 873	Ramos	Assembly Bills - Third Reading File
	AB 900	Reyes	Assembly Bills - Third Reading File
	AB 913	Smith	Assembly Bills - Third Reading File
	AB 937	Carrillo	Assembly Bills - Third Reading File
	AB 965	Levine	Assembly Bills - Third Reading File
	AB 989	Gabriel	Assembly Bills - Third Reading File

\+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	AB 1055	Ramos	Assembly Bills - Third Reading File
	AB 1074	Lorena Gonzalez	Assembly Bills - Third Reading File
	AB 1102	Low	Assembly Bills - Third Reading File
	AB 1103	Megan Dahle	Assembly Bills - Third Reading File
	AB 1140	Robert Rivas	Assembly Bills - Third Reading File
	AB 1158	Petrie-Norris	Assembly Bills - Third Reading File
	AB 1220	Luz Rivas	Assembly Bills - Third Reading File
	AB 1349	Mathis	Assembly Bills - Third Reading File
	AB 1384	Gabriel	Assembly Bills - Third Reading File
RA	AB 1395	Muratsuchi	Assembly Bills - Third Reading File
	ACR 98	Aguiar-Curry	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 65
Author: Skinner (D), et al.
Amended: 9/2/21
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 4/14/21
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener

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

SENATE FLOOR: 31-7, 5/24/21
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
NO VOTE RECORDED: Ochoa Bogh, Wilk

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

SUBJECT: Maternal care and services

SOURCE: Black Women for Wellness Action Project
California Nurse Midwife Association
March of Dimes
NARAL Pro-Choice California
National Health Law Program
Western Center on Law and Poverty

DIGEST: This bill establishes a comprehensive program to improve maternal and infant outcomes: (1) requires state and local investigating, tracking reviewing

and reporting of maternal and infant deaths throughout the state; (2) enacts the Midwifery Workforce Training Act to increase the number of students educated and trained as certified nurse midwives and midwives prepared for service in specified neighborhoods and communities; (3) creates a workgroup related to Medi-Cal coverage for doulas; and, (4) enhances Cal WORKS benefits.

Assembly Amendments:

1) Add a family physician and an emergency room physician familiar with perinatal health as members of the California Pregnancy-Associated Review Committee (CPARC), which is created under this bill, increase membership from nine members to 13 members, and makes other technical changes to CPARC;

2) Prohibit a health care provider, health care facility, or pharmacy providing access to medical records to the CPARC from being held liable for civil damages or being subject to any criminal or disciplinary action for good faith efforts in providing the records;

3) Add confidentiality protections to the Fetal and Infant Mortality Review process provisions;

4) Delete provisions that require Medi-Cal coverage for doula services and instead require DHCS, no later than April 1, 2022, to convene a workgroup to support the successful launch of the Medi-Cal doula benefit enacted pursuant to the Budget Act of 2021, as specified;

5) Require DHCS to submit specified reports to the Legislature related to birth outcomes related to Medi-Cal doula services;

6) Delete provisions which would have made an individual eligible for Medi-Cal, as though the individual was pregnant, for all pregnancy-related and postpartum services for a total of 12 months after the end of the pregnancy (instead of 60 days after pregnancy); and,

7) Delete the Human Services provisions from this bill, with the exception of eliminating the mandatory requirement to work or participate in welfare-to-work for pregnant people.

ANALYSIS:

Existing law:

1) Establishes the California Department of Public Health (CDPH) to be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to public health and licensing and certification of health facilities, as specified. Requires CDPH to maintain a program of maternal and child health. Requires CDPH to develop a plan to identify causes of infant mortality and morbidity in California and to study recommendations on the reduction of infant mortality and morbidity in California. Requires CDPH to track and publish data on severe maternal morbidity and on pregnancy-related deaths, as specified. [HSC §131050, 123225, 123650, and 123630.4]

2) Requires each county board of supervisors to appoint a local health officer (LHO). Requires LHOs to enforce and observe orders and ordinances of the board of supervisors, pertaining to the public health and sanitary matters, orders prescribed by CDPH, and statutes relating to public health. [HSC §101000 and §101030]

3) Establishes the Office of Statewide Health Planning and Development (OSHPD) to, among other functions, collect, analyze, and publish data about healthcare workforce and health professional training, identify areas of health workforce shortages, and provide scholarships, loan repayments, and grants to students, graduates, and institutions providing direct patient care in areas of unmet need. Establishes the Health Professions Education Foundation (HPEF) within the OSHPD to, among other functions, develop criteria for evaluating applicants for various scholarships and loans. [HSC §127750, et seq. and 128335]

4) Establishes the Medi-Cal program, administered by DHCS, under which low-income individuals are eligible for medical coverage. [WIC §14000, et seq.]

5) Establishes the federal Temporary Assistance for Needy Families (TANF) program, which permits states to implement the program under a state plan. Establishes in state law the CalWORKs program to provide cash assistance and other social services for low-income families through TANF. [42 USC 601 et seq. and WIC 11120 et seq.]

This bill:

California Pregnancy-Associated Review Committee

1) Establishes the California Pregnancy-Associated Review Committee (CPARC) within CDPH to continuously engage in the comprehensive, regular, and uniform review and reporting of maternal deaths throughout the state. Requires CDPH, in collaboration with the designated state perinatal quality collaborative, to oversee CPARC. Permits CPARC to incorporate the membership of California Pregnancy-Associated Mortality Review Committee (CA-PAMR), as it existed on December 31, 2021.

2) Requires CPARC investigations of maternal deaths to include, voluntary interviews with specified family members and the medical team, as specified, in addition to reviewing medical records, death certificates, and other pertinent reports.

3) Requires CPARC to publish its findings to the public every three years as part of the publication of data on severe maternal morbidity under existing law, and requires the report to also include recommendations on how to prevent severe maternal morbidity and maternal mortality and how to reduce racial disparities.

4) Requires CPARC to be composed of a minimum of 13 members, and requires members to be comprised of multidisciplinary personnel in specified fields. Permits CPARC to create subcommittees, as needed, to carry out its duties, and to request from any state department, division, commission, local health department, or other agency of the state or political subdivision, or any public authority, and other individuals and entities, as specified.

5) Requires all proceedings and activities of CPARC, all opinions of its members that are formed as a result of its proceedings and activities, and all records obtained, created, or maintained by CPARC, including written reports and records of interviews or oral statements, to be confidential, as specified. Prohibits CPARC from disclosing any personally identifiable information to the public, or include any personally identifiable information in a case summary or any report.

6) Specifies that this bill does not prohibit CPARC from publishing, or from otherwise making available for public inspection, statistical compilations or reports that are based on confidential information, provided that those compilations and reports do not contain personally identifying information or other information that could be used to ultimately identify the individuals

concerned. Requires CPARC to utilize standard public health reporting practices for accurate dissemination of these data elements, especially in regard to the reporting of small numbers so as to inadvertently risk a breach of confidentiality or other disclosure.

Local Fetal and Infant Mortality Review

7) Requires each county to annually report infant deaths to the local health department (LHD). Requires a LHD to establish a Fetal and Infant Mortality Review (FIMR) committee to investigate infant deaths to prevent fetal and infant death if the county has five or more infant deaths in a single year or the county has a death rate that is higher than the state's death rate for two consecutive years. Specifies the duties that LHDs that participate in FIMR to conduct, including to annually investigate, track, and review a minimum of 20% of the county's cases of term infants (36 weeks or more of gestation) who were born following labor with the outcome of intrapartum stillbirth, early neonatal death, or postneonatal death, focusing on demographic groups that are disproportionately impacted by infant death. Requires a county that has less than five deaths in a year to investigate at least one death.

8) Requires counties, hospitals, birthing centers, and state entities to provide to local public health agencies death records, medical records, autopsy reports, toxicology reports, hospital discharge records, birth records, and any other information that will help the local public health agency conduct the fetal and infant mortality review within 30 days of a request made in writing by a local public health agency.

Midwifery Workforce Training Act

9) Requires OSHPD to establish a program to contract with programs that train certified nurse-midwives and programs that train licensed midwives to increase the number of students receiving quality education and training as a certified nurse-midwife or a licensed midwife.

10) Requires OSHPD to only contract with programs that train certified nurse-midwives and programs that train licensed midwives that, at minimum, include a component of training designed for medically underserved multicultural communities, lower socioeconomic neighborhoods, or rural communities, and that are organized to prepare program graduates for service in those neighborhoods and communities.

11) Requires OSHPD to adopt standards and regulations necessary to carry out this bill, and permits OSHPD to accept those standards established by the licensing and regulatory bodies governing certified nurse-midwives and licensed midwives.

12) Permits OSHPD to pay contracted programs that train certified nurse-midwives and programs that train licensed midwives in an amount calculated based on a single per-student capitation formula, or through another method, in order to cover innovative special program costs.

13) Permits funds appropriated to OSHPD for purposes of this bill to be used to develop new programs, expand existing programs, or support current programs.

Medi-Cal Doulas Workgroup

14) Requires DHCS, no later than April 1, 2022, to convene a workgroup, as specified, to support the successful launch of the Medi-Cal doula benefit enacted pursuant to the Budget Act of 2021 that meets the needs of the Medi-Cal recipients as well as the doulas providing the services.

15) Requires the workgroup shall be comprised of doulas, health care providers, consumer and community advocates, health plans, county representatives, and other stakeholders with experience with doula services as determined by DHCS.

16) Requires DHCS, no later than July 1, 2023, to submit a report to the Legislature, as specified, that provides the number of Medi-Cal recipients utilizing doula services, broken down by race, ethnicity, primary language, health plan, and county. Requires the report to also identify any barriers that impede access to doula services in the prenatal, labor and delivery, and postpartum periods and make recommendations to the department and the Legislature to reduce any identified barriers.

17) Requires DHCS, no later than July 1, 2024, to submit a report to the Legislature that provides a numerical comparison in the birthing outcomes of Medi-Cal recipients who receive doula services with those who do not, including, but not limited to, rates of caesarean section births, maternal or infant mortality, other maternal morbidity, and, to the extent available through information provided voluntarily by the Medi-Cal recipient, breast and chest feeding outcomes.

Human Services Provisions

18) Eliminates the mandatory requirement to work or participate in welfare-to-work for pregnant people (unless exempted) and makes participation voluntary.

Comments

Author's statement. According to the author, the United States is failing birthing people and babies – particularly women and babies of color. More birthing people and babies die in this country than in any other high-income countries– and many of these deaths are preventable. This bill takes a comprehensive approach to improve outcomes for birthing parents and babies by closing racial disparities in maternal and infant death and near-death experiences. It accomplishes this by requiring comprehensive investigations into maternal and infant mortality and morbidity, improving data collection and research on socio-economic factors that contribute to negative birth outcomes, expanding postpartum health care for parents and babies, and improving access to health options like doulas and midwives which have been proven to improve birthing outcomes for women and babies of color.

(NOTE: Please see the Health Committee and Human Services Committee analysis for full background discussion on this bill.)

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

According to the Assembly Appropriations Committee:

1) This bill likely requires at least $6.7 million, primarily for the California Department of Public Health's CPARC implementation. Significant staffing and contracting are anticipated as necessary for the committee's work, investigations and reporting (General Fund).

2) By requiring counties to report on infant deaths with additional requirements in specified circumstances, this bill likely imposes General Fund costs potentially reimbursable by the state, subject to a determination by the Commission on State Mandates.

SUPPORT: (Verified 9/9/21)

Black Women for Wellness Action Project (co-source)
California Nurse Midwife Association (co-source)
March of Dimes (co-source)
NARAL Pro-Choice California (co-source)

National Health Law Program (co-source)
Western Center on Law and Poverty (co-source)
2020 Mom
Access Reproductive Justice
ACLU California Action
Alliance of Californians for Community Empowerment Action
American Civil Liberties Union of Northern California, Southern California, San Diego and Imperial Counties
Anthem Blue Cross
Birthwork for All
Black Wellness & Prosperity Center
Black Women Organized for Political Action
BreastfeedLA
Business & Professional Women of Nevada County
California Black Health Network
California Breastfeeding Coalition
California Coalition of Welfare Rights Organizations
California Commission on the Status of Women and Girls
California Department of Insurance
California Healthy Nail Salon Collaborative
California Immigrant Policy Center
California Latinas for Reproductive Justice
California League of Conservation Voters
California Pan-Ethnic Health Network
California Physicians Alliance
California Rural Legal Assistance Foundation
California WIC Association
California Women's Law Center
Californiahealth+ Advocates
Causes to Care About
Center on Reproductive Justice at Berkeley Law
Children Now
Children's Specialty Care Coalition
Children's Defense Fund-California
Citizens for Choice
Coalition of California Welfare Rights Organizations
Community Clinic Association of Los Angeles County
Community Health Councils
Consumer Watchdog
County of Los Angeles Board of Supervisors

Courage California
Courageous Resistance of the Desert
Disability Rights Education and Defense Fund
Empowering Pacific Islander Communities
Essential Access Health
Every Mother Counts
Everychild Foundation
Family Violence Law Center
First 5 Association of California
First 5 California
First 5 Fresno County
Fund Her
Generation Blue
Having Our Say Coalition
Health Access California
Health Net
If/When/How: Lawyering for Reproductive Justice
In Our Own Voice: National Black Women's Reproductive Justice Agenda
Indivisible Beach Cities
Inland Empire Health Plan
LA Best Babies Network
Loom
Los Angeles County Chief Executive Office
Maternal and Child Health Access
Momma Fit Sant Maria
Mt. Diablo Doula Community
National Association of Social Workers, California Chapter
National Center for Youth Law
National Council of Jewish Women CA
National Council of Negro Women, Sacramento Valley Section
National Women's Political Caucus of California
Oakland Better Birth Foundation
Parenting for Liberation
Plan C
Planned Parenthood Affiliates of California
Providence
Public Law Center
Religious Coalition for Reproductive Choice
Santa Barbara Women's Political Committee
SBCC Thrive LA

SBCC-Strength Based Community Change
SMV Doula Collective
TEACH
The Birth Equity Advocacy Project
The Birthworkers of Color Collective
The Children's Partnership
The Coalition of 100 Black Women, Los Angeles Chapter
The Fresno Center
The Praxis Project
The Women's Foundation of California, Women's Policy Institute
Time for Change Foundation
Training in Early Abortion for Comprehensive Healthcare
United Ways of California
Women's Health Specialists
Women's Wisdom Art
Young Women's Freedom Center
Three Individuals

OPPOSITION: (Verified 9/9/21)

Department of Finance

ARGUMENTS IN SUPPORT: A coalition letter from the sponsors of this bill states that although California has reduced the rates of maternal mortality over the past 30 years, mortality and morbidity for Black and Indigenous/Native American pregnant people, women, and infants remain considerably higher than the state's average. Research points to structural racism, as well as socioeconomic factors, contributing to the racial and geographic disparities seen in birthing outcomes of people of color. In addition, although we have not gotten updated data at the state level in several years, county data suggest that the racial disparities are widening, with deaths for Black birthing people ticking back up here in California. Between 2011 and 2013, the ratio of death for Black women was 26.4 per 100,000, almost 3.8 times higher than that for white women. In certain counties, the disparities are even greater. In Los Angeles County, the largest county in California, the rate of maternal death for Black women is over 4.5 times higher than the County overall rate for women. According to the Los Angeles County Office of Women's Health Indicators for Women in Los Angeles County 2013 report, the ratio of Black maternal mortality in Los Angeles was 58.6 per 100,000. In the 2018 version of the report, the number was 85.8 per 100,000. LA County's ratio for all women in the 2018 report was 17.9 per 100,000.

Meanwhile, California's infant mortality rate is 4.2 per 1000 live births, lower than the national average of 5.7. However, a closer look at the numbers demonstrates sharp racial disparities. Indigenous/Native American infants in California die at a rate of 11.7 per 1000 live births, followed by Black infants who die at a rate of 8.7 per 1000 live births. Higher numbers of Black and Asian and Pacific Islander pregnant and postpartum people report unfair treatment, harsh language, and rough handling during their labor/delivery hospital stay, as compared to white pregnant and postpartum people. Higher numbers of pregnant and postpartum people who speak an Asian Language or Spanish at home also report unfair treatment during their labor/delivery hospital stay, as compared to pregnant and postpartum people who speak primarily English at home. In addition, California is heading towards a maternal health crisis, with critical shortages in maternity providers predicted by 2025. Currently, California has nine counties that do not have a single OBGYN. California only has two nurse-midwifery programs in the entire state, and only one direct-entry midwifery program, approved by their respective state licensing boards. It is becoming increasingly difficult for these programs to expand the midwifery workforce in California to meet the demand in maternity care deserts and low access areas.

ASSEMBLY FLOOR: 77-0, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, 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, Choi, Cooley

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
9/9/21 21:29:11

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

SENATE RULES COMMITTEE SB 270
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 270
Author: Durazo (D), et al.
Amended: 9/3/21
Vote: 21

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

SENATE JUDICIARY COMMITTEE: 8-2, 4/13/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Stern

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

SENATE FLOOR: 30-10, 6/1/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Glazer, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk

ASSEMBLY FLOOR: 58-15, 9/9/21 - See last page for vote

SUBJECT: Public employment: labor relations: employee information

SOURCE: California Labor Federation
California School Employees Association
SEIU California

DIGEST: This bill authorizes public employee unions to file a special unfair labor practices charge before the Public Employment Relations Board (PERB) against public employers that fail to comply with existing law requiring disclosure of employee information to public employee unions. This bill requires PERB to levy a civil penalty not to exceed $10,000 if the employer is in violation of the disclosure requirements. PERB shall award the prevailing parties' attorneys fees and costs, as specified, and shall also receive its own attorneys fees and costs, as specified, if required to seek enforcement of or defend its decisions in superior court.

Assembly Amendments extend the period that public employers have to cure specified violations of the bill's provisions from 10 to 20 calendar days.

ANALYSIS:

Existing law:

1) Governs collective bargaining in the private sector under the federal National Relations Labor Relations Act (NLRA) but leaves it to the states to regulate collective bargaining in their respective public sectors (29 U.S.C. §§ 151-169).

   While the NLRA and the decisions of its National Labor Relations Board often provide persuasive precedent in interpreting state collective bargaining law, public employees have no collective bargaining rights absent specific statutory authority establishing those rights.

2) Contains several statutory frameworks under California law that provide public employees collective bargaining rights and govern public employer-employee relations to limit labor strife and economic disruption in the public sector (e.g., the Meyers-Milias-Brown Act, the Educational Employment Relations Act, et al. (Government Code § 3500 et seq., GC § 3540 et seq., et al.).

3) Establishes PERB to administer the resolution of employer-employee relations pursuant to the respective public employee collective bargaining statutes, but provides the City and County of Los Angeles a local alternative to PERB oversight (GC § 3541 et seq.).

4) Requires public employers subject to the respective public employee collective bargaining statutes to provide public employee unions with the names and home addresses of newly hired employees, as well as their job titles, departments, work locations, telephone numbers, and personal email addresses, within 30 days of hire or by the first pay period of the month following hire. Existing law also requires public employers to provide this information for all employees in a bargaining unit at least every 120 days, except as specified (Government Code § 3558).

This bill:

1) Authorizes a public employee union to file a special charge of an unfair labor practice with PERB against a public employer alleging a violation of GC § 3558's employee information disclosure obligations after the following:

    a) The union provides written notice to the employer's designated representative, as specified.
    b) The employer fails to comply with limited cure provisions, as specified. The employer has 20 calendar days to cure.

        i) For certain violations there are no cure provisions (e.g., the employer's failure to provide the union a list of newly hired employees or a list of bargaining unit members within specified time frames).
        ii) Also, the employer can use the cure provision not more than three times in any 12-month period.

2) Provides, for the City and County of Los Angeles, unions would have the right to file this special charge with the city and county's respective employee relations commissions, not PERB. Those commissions, not PERB, would be required to levy the fines, fees, and costs pursuant to this bill's provisions, as described below.

3) Requires PERB to assess, in addition to any other remedy provided by law, a civil penalty of up to $10,000 against the employer if PERB finds that the employer violated the union's right to receive the employee information. PERB shall determine the actual amount of the penalty based on the application of certain criteria, as specified, including the employer's annual budget, the severity of the violation, and any prior history of violations. The employer shall pay the penalty to the state's General Fund.

4) Requires PERB to award the prevailing party (i.e., either the union or the employer) attorney's fees and costs that accrue from the inception of proceedings before PERB's Division of Administrative Law until PERB's final disposition of the charge. However, PERB shall not award attorney's fees and costs under this section for any proceedings before the board itself that challenge the dismissal of an unfair practice charge by PERB's Office of the General Counsel.

5) Requires a reviewing court to award PERB attorney's fees and costs if PERB is the prevailing party where PERB initiates proceedings with a superior court to enforce or achieve compliance with a PERB order, or is required to defend a PERB decision after a party seeks judicial review involving this bill's provisions.

6) Provides that the bill's provisions will become operative on July 1, 2022.

Comments

Need for the bill? According to the author, "Current law requires public employers to provide exclusive representatives access to new employee orientations. It also guarantees exclusive representatives access to new hire information within 30 days of the hire date, and bargaining unit data at least every 120 days.

"If a public employer does not comply with these requirements, the only recourse a public employee organization can take is filing a charge with the Public Employee Relations Board (PERB). This process can take two years to complete and PERB can only order employers to pay provable damages. Employee organizations have no recourse to collect attorney's fees or the staff costs they may have incurred trying to enforce this right."

Related/Prior Legislation

SB 1173 (Durazo 2020) was substantially similar to this bill. The bill filed passage on the Senate Floor.

AB 119 (Assembly Committee on Budget, Chapter 21, Statutes of 2017) included provisions to require certain public sector entities to provide specified employee contact information to employee exclusive representatives.

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

According to the Assembly Appropriations Committee:

- Ongoing General Fund costs to PERB of about $285,000 to adjudicate 30 cases annually. This amount could be partially offset by any penalty revenues. (PERB estimates that each unfair practice charge filed with PERB costs the agency, on average, about $9,500 to adjudicate.)

- Overall PERB estimates 60 annual unfair practice charges annually. However, according to PERB, a significant portion of disputes could be cured. Assuming half of disputes are cured, PERB anticipates having to resolve the remaining 30 disputes.

SUPPORT: (Verified 9/9/21)

California Labor Federation (co-source)
California School Employees Association (co-source)
SEIU California (co-source)
California Association of Electrical Workers
California Conference of Machinists
California Conference of the Amalgamated Transit Union
California Faculty Association
California Federation of Interpreters
California Federation of Teachers
California Professional Firefighters
California State Association of Electrical Workers
California State Pipe Trades Council
California Teachers Association
California Teamsters Public Affairs Council
California-Nevada Conference of Operating Engineers
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
International Union of Operating Engineers, CalNeva Conference
Professional and Technical Engineers, IFPTE Local 21, AFL-CIO
UAW Western States
United Public Employees
Western State Council of Sheet Metal Workers

OPPOSITION: (Verified 9/9/21)

Association of California Healthcare Districts
California Association of Joint Powers Authorities

California Association of School Business Officials
California School Boards Association
California Special Districts Association
California State Association of Counties
League of California Cities
Public Risk Innovation, Solutions, and Management
Rural County Representatives of California
Urban Counties of California

ARGUMENTS IN SUPPORT: According to the California School Employees Association,

> The list of employees' contact information is vital, especially during the COVID-19 crisis. To be able to represent our members, we need to have their contact information. Without contact information, the bargaining unit cannot reach out to ensure that workers have the needed protective equipment, access to virus testing and vaccines, that appropriate protections are in place at their worksite, or inform employees of their rights if employers execute layoffs.
>
> SB 270 would enact a process of enforcement at the Public Employment Relations Board (PERB). When public employers fail to provide the employment list, this bill would allow PERB to review the case and decide if penalties or other remedies can resolve the problem

ARGUMENTS IN OPPOSITION: A coalition of groups representing public employers, including the League of California Cities and the California State Association of Counties, argues in opposition that there "is no data supporting the need for this bill, the 'right to cure' contained in the bill is illusory, and the legislation would divert much needed funds away from public benefit in the middle of a pandemic." They assert:

> California is entering the second year of the COVID-19 pandemic and public agency budgets – especially local public agencies – are stressed under the combined weight of limited resources and increased demand for public services. SB 270 will divert much needed public resources away from public benefit and into the pockets of labor unions who are having disputes with their employers. There continues to be a lack of data suggesting that there is even a meaningful problem that needs to be addressed. When this bill was advanced last year (SB 1173), the analyses

contained only anecdotal evidence of problems with timely and accurate reporting.

ASSEMBLY FLOOR: 58-15, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, 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, Choi, Cunningham, Megan Dahle, Davies, Fong, Kiley, Lackey, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Chen, Cooley, Flora, Frazier, Gallagher, Mathis, Valladares

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
9/9/21 21:01:04

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

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UNFINISHED BUSINESS

Bill No: SB 310
Author: Rubio (D), et al.
Amended: 8/30/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 14-0, 3/8/21
AYES: Roth, Melendez, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan

SENATE JUDICIARY COMMITTEE: 11-0, 4/6/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, 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: 79-0, 9/8/21 - See last page for vote

SUBJECT: Unused medications: cancer medication recycling

SOURCE: American Cancer Society Cancer Action Network
Association of Northern California Oncologists
Medical Oncology Association of Southern California

DIGEST: This bill establishes the Cancer Medication Recycling Act (Cancer Medication Program) until January 1, 2027 to allow for the donation and redistribution of cancer drugs between patients of a participating physician.

Assembly Amendments (1) remove Cancer Medication Program oversight from the Medical Board of California (MBC) and instead require a participating practitioner to register with a Board of Pharmacy (Board) licensed surplus medication collection and distribution intermediary; (2) add a January 1, 2027 sunset date; (3) specify that only medication in unopened, tamper-evident dose unit packaging that includes the drug's lot number and expiration date or a cancer drug packaged in single-unit doses may be accepted and dispensed if the outside packaging is opened but the single-unit dose packaging is unopened; and (4) authorize the Board to prohibit a participating practitioner from participating if the practitioner does not comply with program requirements.

ANALYSIS:

Existing law:

1) Establishes a voluntary drug repository and distribution program (Program) to distribute surplus medications to persons in need of financial assistance to ensure access to necessary pharmaceutical therapies. Expresses the intent of the Legislature in establishing this program that the health and safety of Californians are protected and promoted through this program, while reducing unnecessary waste at licensed health and care facilities, by allowing those facilities to donate unused and unexpired medications that were never in the hands of a patient or resident and for which no credit or refund to the patient or resident could be received. (Health and Safety Code (HSC) § 150200)

2) Authorizes a county to establish a Program and requires a county to establish written procedures for Program administration to establish eligibility for medically indigent patients to participate, develop a formulary appropriate for the Program, ensure proper safety and management of medications, and other provisions. (HSC § 150204)

3) Specifies that medication donated to the Program shall not be a controlled substance; shall not have been adulterated, misbranded, or stored under conditions contrary to standards set by the United States Pharmacopoeia (USP) or the product manufacturer and; shall not have been in the possession of a patient or any individual member of the public, and in the case of medications donated by a health or care facility, shall have been under the control of a staff member of the health or care facility who is licensed in California as a health care professional or has completed, at a minimum, specified training requirements. States that only medication that is donated in unopened, tamper-evident packaging or modified unit dose containers that meet USP standards is eligible for donation to the Program. Requires a pharmacist or physician at a

participating entity to use their professional judgment in determining whether donated medication meets the standards before accepting or dispensing any medication.

This bill:

1) Defines various terms for purposes of the Cancer Medication Program, including but not limited to "Donor" as an individual who donates unused prescription drugs to a participating practitioner for the purpose of redistribution to established patients of that practitioner; "Ineligible drugs" which include all controlled substances, including all opioids, all compounded medications, injectable medications, drugs that have an approved United States Food and Drug Administration (FDA) Risk Evaluation and Mitigation Strategy requirement, and all growth factor medications; "Participating practitioner" as a person licensed to practice medicine with MBC , is board certified in medical oncology or hematology, and is registered with a surplus medication collection and distribution intermediary; "Recipient" as an individual who voluntarily receives donated prescription medications and; "Unused cancer medication" or "medication" as a medication or drug that is prescribed as part of a cancer treatment plan and is in its original, unopened, tamper-evident container or packaging that includes the drug's lot number and expiration date and; "Surplus medication collection and distribution intermediary" as an entity licensed by the Board for purposes of Program participation.

2) Requires a participating practitioner to annually register with a licensed surplus medication collection and distribution intermediary. Specifies, upon the approval of an application and payment of a fee in an amount not to exceed 300 to the surplus medication collection and distribution intermediary, that the surplus medication collection and distribution intermediary shall issue or renew a registration certificate to operate as a participating practitioner, if the practitioner has complied with all Cancer Medication Program requirements. Authorizes the Board to request records from the surplus medication collection and distribution intermediary and to prohibit a participating practitioner from participation if they do not comply with Cancer Medication Program requirements.

3) Specifies that a participating practitioner can only accept donated medications originally prescribed for use by established patients of that participating practitioner or practice. Specifies that a participating practitioner distribute a medication only if it will not expire before the proper use by the recipient based on the participating practitioner's directions for use. Requires a participating

practitioner to refuse a medication that has previously been redistributed. Specifies that a participating physician must store all donated medications separately from all other medication stock and in compliance with the manufacturer's storage requirements. Requires confidential patient and personal information to be removed from donated medications. Requires participating practitioners to examine the donated drug to determine that it has not been adulterated or misbranded and certify that the medication has been stored in compliance with the requirements of the product. Require participating practitioners to monitor all FDA recalls, market withdrawals, and safety alerts and communicate with recipients if medications they received may be impacted by the FDA action. Specifies requirements for donated medications to ensure that the drugs are unaltered, safe, and suitable for redistribution.

4) States that a donor acting in good faith is not subject to criminal or civil liability, and is not subject to a penalty pursuant to the Sherman Food, Drug, and Cosmetic Law, for an injury caused when donating, accepting, or dispensing medication or in cases of malpractice unrelated to the quality of the medication. States that a participating practitioner that receives and redistributes a donated medication is not subject to a penalty pursuant to the Sherman Food, Drug, and Cosmetic Law resulting from the condition of the donated medication unless an injury arising from the donated medication is caused by the gross negligence, recklessness, or intentional conduct of the participating practitioner or in cases of malpractice unrelated to the quality of the medication. States that a prescription drug manufacturer, wholesaler, participating entity, participating practitioner who accepts or dispenses prescription drugs, or a donor are not subject to criminal or civil liability for an injury caused when donating, accepting, or dispensing prescription drugs in compliance with the Cancer Medication Program. Specifies that immunities do not apply in cases of noncompliance with Cancer Medication Program requirements, gross negligence, recklessness, intentional conduct, or in cases of malpractice unrelated to the quality of the medication Specifies that this shall not affect disciplinary actions taken by licensing and regulatory agencies.

Background

Costs. According to a 2018 report from The President's Cancer Panel, an independent panel established under the National Cancer Act of 1971 tasked with identifying high-priority issues that are impeding progress against cancer, from 1995 to 2014, there was a sharp increase in the launch price of new cancer drugs. Most cancer drugs launched between 2009 and 2014 were priced at more than $100,000 per patient for one year of treatment. The report found that the recent,

dramatic rise in drug prices is straining patient, health system, and societal resources. Drugs account for about 20 percent of the total costs of cancer care in the United States, but cancer drug costs are accelerating faster than costs for other components of care. Launch prices of cancer drugs in the United States have risen so steeply over the past few decades that they have quickly outpaced growth in household incomes. U.S. patients and their insurers are paying more than ever for cancer drugs, $54,100 for a year of life in 1995 compared with $207,000 in 2013. According to the report, "the burden of high drug costs on patients, even those with health insurance, can be significant. Out-of-pocket spending on drugs can be hundreds, or even thousands, of dollars a month for patients in active treatment. Patients with higher out-of-pocket expenses are less likely to adhere to recommended treatment regimens, which may have a detrimental impact on outcomes."

California's Existing Drug Donation Program. California's Program was established in 2006, which authorized California counties to adopt an ordinance under which certain licensed entities could donate unused medications to county-owned pharmacies, or pharmacies that contract with the county, for dispensing to medically indigent patients free of charge.

The Program has since been revised three times in order to better effectuate its purposes. SB 1329 (Simitian, Chapter 709, Statutes of 2012) authorized a county public health officer to implement a Program and added several categories of licensed health care facilities that may donate medications; in 2013, AB 467 (Stone, Chapter 10, Statutes of 2014) established a licensure category to facilitate the transfer of donated medications, and AB 1069 (Gordon, Chapter 316, Statutes of 2016) authorized a Program pharmacy to repackage a reasonable quantity of donated medicine in anticipation of dispensing to a specific patient.

At least three counties in California (Santa Clara, San Mateo, and San Francisco) have established a Program, although the Santa Clara Program is the only current operational program. As of April 2018, Santa Clara's Better Health Pharmacy has distributed more than 31,000 free prescriptions from 180 donors around California, saving residents more than $2,000,000.

Similar Programs in Other States. According to the National Conference of State Legislatures (NCSL), "[39] states and Guam have enacted legislation regarding prescription drug donation, return and reuse. State legislation usually determines the type of medication accepted, the entities eligible to donate, the pharmacy protocols to ensure safety and the individuals eligible for redistribution. Most programs focus on providing expensive medications to those with limited

resources. Programs also vary in their efficacy and operational status, as states range in their ability to fund them and provide access points to redistribute medication." NCSL notes commonalities in most state drug donation programs, including no controlled substances, no adulterated or misbranded medication, all pharmaceuticals must be checked by a pharmacist prior to being dispensed, all pharmaceuticals must not be expired at the time of receipt, all pharmaceuticals must be unopened and in sealed, tamper-evident packaging, and liability protection for both donors and recipients usually is assured.

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

According to the Assembly Appropriations Committee, costs for the Board are estimated to be approximately $95,000, costs for MBC are estimated to be minor and absorbable, and the bill will result in $1,000 in information technology costs for both boards.

SUPPORT: (Verified 9/8/21)

American Cancer Society Cancer Action Network (co-source)
Association of Northern California Oncologists (co-source)
Medical Oncology Association of Southern California (co-source)
Medical Board of California

OPPOSITION: (Verified 9/8/21)

None received

ARGUMENTS IN SUPPORT: Supporters state that "Even with insurance, cancer patients often face unpredictable or unmanageable costs including high co-insurance, high deductibles, having to seek out-of-network care, and needing a treatment that is not covered by their health plan. Even when cancer treatments are covered by their health plan, it is often difficult to afford their initial treatments and they are frequently forced to wait for treatments to begin due to health insurance approval delays. At the same time, it is not uncommon for some cancer patients to find out early in their treatment that their medication is not the correct treatment for them and they need to return the medication and begin a new treatment. This often leaves physicians with unused medication that could be used by another patient. In cancer care, delaying treatment during the approval process can be the difference between life and death. Having a separate resource for effective therapy in this setting because of a separate pool of available medications can be lifesaving.

ASSEMBLY FLOOR: 79-0, 9/8/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, 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 Mason / B., P. & E.D. /
9/8/21 21:28:49

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

SENATE RULES COMMITTEE SB 311
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 311
Author: Hueso (D), et al.
Amended: 9/1/21
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 3/10/21
AYES: Pan, Melendez, Eggman, Gonzalez, Grove, Hurtado, Leyva, Limón, Roth, Rubio, Wiener

SENATE FLOOR: 36-0, 3/22/21
AYES: Allen, Archuleta, Atkins, Bates, Becker, 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: Borgeas, Limón, McGuire, Stern

ASSEMBLY FLOOR: 71-1, 9/9/21 - See last page for vote

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

SOURCE: Author

DIGEST: This bill requires a health care facility to permit a terminally ill patient, defined as a prognosis of one year or less to live, to use medical cannabis within the health care facility.

Assembly Amendments delete a provision that prohibited this bill from being enforced by the California Department of Public Health (CDPH); and require health facilities to comply with drug and medication requirements applicable to Schedule II, III, and IV, notwithstanding the classification of cannabis as a Schedule I drug, and to be subject to enforcement actions by CDPH.

ANALYSIS:

Existing law:

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

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

3) Includes in the definition of "primary caregiver," for purposes of the CUA, the owner or operator, or no more than three employees designated by the owner or operator, of the following facilities, in a case in which a qualified patient or person with a medical marijuana identification card receives medical care or supportive services from one of these facilities: a licensed clinic, a licensed health care facility, certain residential care facilities, a hospice, or a home health agency, as each of these facilities are defined. [HSC §11362.7]

4) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act 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.]

5) Establishes the End of Life Option Act to permit an adult individual with a terminal disease and who has the capacity to make medical decisions to request a prescription for an aid-in-dying drug, under specified circumstances. Defines "terminal disease," for purposes of the End of Life Option Act, as an incurable

and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, result in death within six months. [HSC §443.1]

6) Establishes the California Hospice Licensure Act to ensure the health and safety of patients who, by definition, are experiencing the last phases of life due to the existing of a terminal disease. Defines "terminal disease," for purposes of this law, as a medical condition resulting in a prognosis of life of one year or less, if the disease follows its natural course. [HSC §1746]

This bill:

1) Enacts the "Compassionate Access to Medical Cannabis Act," or "Ryan's Law," stating the intent of the Legislature to support the ability of a terminally ill patient to safely use medical cannabis within specified health care facilities in compliance with the Compassionate Use Act of 1996.

2) Defines, for purposes of this bill, "health care facility" to mean a licensed general acute care hospital, special hospital, skilled nursing facility, congregate living health facility, or hospice provider. Excludes from this definition of "health care facility" a chemical dependency recovery hospital or a state hospital.

3) Defines, for purposes of this bill, "terminally ill" to mean a medical condition resulting in a prognosis of life of one year or less, if the disease follows it natural course.

4) Requires a health care facility to permit patient use of medical cannabis and do all of the following:

   a) Prohibit smoking or vaping as methods to use medical cannabis;

   b) Include the use of medical cannabis within the patient's medical records;

   c) Require a patient to provide a copy of the patient's valid medical marijuana identification card, as specified, or a copy of that patient's written documentation by the patient's attending physician stating that the person has been diagnosed with a serious medical condition and that the medicinal use of cannabis is appropriate;

   d) Reasonably restrict the manner in which a patient stores and uses medicinal cannabis, including requiring the medicinal cannabis to be stored in a locked container, to ensure the safety of other patients, guests, and

employees of the health care facility, compliance with other state laws, and the safe operations of the health care facility; and,

e) Develop and disseminate written guidelines for the use of medical cannabis within the health care facility pursuant to this bill.

5) Exempts the provisions in 4) above from applying to patients receiving emergency services and care, or to the emergency department of a health care facility while the patient is receiving emergency services and care.

6) Requires health facilities, notwithstanding the classification of medical cannabis as a Schedule I drug, to comply with drug and medication requirements applicable to Schedule II, III, and IV drugs and to be subject to enforcement actions by CDPH.

7) Prohibits this bill from being deemed to require a facility to provide a patient with a recommendation to use medical cannabis or include medical cannabis in a patient's discharge plan.

8) Prohibits compliance with this bill from being a condition for obtaining, retaining, or renewing a license as a health care facility.

9) Prohibits this bill from being deemed to reduce, expand, or otherwise modify the laws restricting the cultivation, possession, distribution, or use of cannabis that may be otherwise applicable, including, but not limited to, the Control, Regulate and Tax Adult Use of Marijuana Act

10) Permits a health care facility to suspend compliance with the provisions of this bill if a federal regulatory agency, the United States Department of Justice, or the federal Centers for Medicare and Medicaid Services initiates enforcement action against a health care facility related to the facility's compliance with a state-regulated medical marijuana program, or issues a rule or otherwise provides notification to the health care facility that expressly prohibits the use of medical marijuana in a health facility.

11) Specifies that the ability of a health facility to suspend compliance with this bill pursuant to 11) above does not permit a health care facility to prohibit the use of medical cannabis due solely to the fact that cannabis is a Schedule I drug or other federal constraints on the use of medical marijuana that were in existence prior to the enactment of this bill.

Comments

1) *Author's statement.* According to the author, this bill, known as "Ryan's Law," would provide relief, compassion and dignity to Californians during the most vulnerable time of their lives. Despite the state's approval of medical cannabis use for adults and children, and legalized recreational use for adults, California patients are currently unable to access medical cannabis while in an in-patient setting – even if they possess a valid physicians' recommendation. As a result, individuals have been subjugated to unnecessary trials of pain and suffering. This is a simple, yet critical, step that will have an abundance of benefits, and ensure access to compassion and pain management for the most vulnerable Californians.

2) *New York and other states.* The author has pointed to regulations adopted by the New York Department of Health governing its medical marijuana program as a precedent for this bill. In October of 2017, regulations went into effect allowing hospitals, nursing homes and other health facilities to obtain medical marijuana for their patients by allowing these facilities to be registered as "caregivers" for up to five patients. Health facilities are not required to participate, but are allowed to become caregivers to obtain and provide cannabis to their patients. However, this program is very similar to a provision of California law that defines "primary caregiver," for purposes of the CUA, to include the owner or operator of certain types of facilities, or up to three employees designated by the owner or operator of the facilities. Both the New York regulation, and California law, are written to allow a facility to become a "caregiver" of a patient who qualifies for medical marijuana, which provides the caregiver with protection from enforcement of state marijuana laws. What this bill seeks to do, rather than have the facility become the "caregiver," is to require the facility to allow the patient to use his or her own cannabis that they or their caregiver such as a family member, bring into the facility with them.

   ACP Hospitalist, a publication of the American College of Physicians, published an article in January 2017 entitled "*Medical marijuana…in the hospital?"* According to this article, with medical marijuana laws now in effect in more than half the country, hospitals are seeing more patients who have been certified to use the drug, and they are developing policies and practices in response. According to this article, as of May 2016, state laws in Connecticut and Maine permit the use of medical marijuana by hospitalized patients and give some state-level legal protection for clinicians who administer it. However, with regard to Maine, where medical cannabis has been legal for years and even with state law permitting use in a hospital, hospitals commonly

prohibit the use of the drug in their facilities. In 2015, a Maine- registered marijuana patient, hospitalized with a blood infection, tried to treat himself by rubbing an infused lotion onto his hand to relieve pain and stiffness from carpal tunnel. The hospital told the patient to remove the substance from the hospital or it would be confiscated. Elsewhere, according to the *ACP Hospitalist* article, the Minnesota Hospital Association came up with three sample policies with three clear stances that hospitals can take on the issue: one template for hospitals that choose to prohibit medical cannabis in their facilities; a second template for hospitals that choose to allow patients to be able to continue their use of cannabis while in the hospital with self-directed therapy; and a third template for hospitals that choose to incorporate the patient's use of cannabis in the hospital's medication process. The article pointed to the Mayo Clinic permitting use by patients registered with Minnesota's medical marijuana program who come into the hospital with a cannabis product in its original container as dispensed by an approved cannabis patient center.

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

Related/Prior Legislation

SB 305 (Hueso, 2019) was nearly identical to this bill, but was vetoed by the Governor. In his veto message, Governor Newsom stated that "It is inconceivable

that the federal government continues to regard cannabis as having no medicinal value. The federal government's ludicrous stance puts patients and those who care for them in an unconscionable position. Nonetheless, health facilities certified to receive payment from the federal Center for Medicare and Medicaid Services must comply with all federal laws in order to receive federal reimbursement for the services they provide. This bill would create significant conflicts between federal and state law that cannot be taken lightly. Therefore, I begrudgingly veto this bill."

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

Unknown.

SUPPORT: (Verified 9/9/21)

Americans for Safe Access
Bay Area Chapter of Americans for Safe Access
Cal NORML
California Cannabis Industry Association
Cannabis Nurses Network
Eaze Technologies
Operation Evac
San Diego Americans for Safe Access
Southern California Coalition
Weed for Warriors
Four individuals

OPPOSITION: (Verified 9/9/21)

California Association of Health Facilities
California Hospital Association
Scripps Health

ARGUMENTS IN SUPPORT: Cannabis Nurses Network states in support that under the federal Drug-Free Workplace Act, any institution receiving federal funds or grants is prohibited from engaging in the distribution of "controlled substances" in the workplace, which has resulted in hospitals adopting policies that prohibit medical cannabis on their grounds. This means that, despite the state's approval of medical cannabis use for adults and children, and legalized recreational use for adults, California patients are currently unable to continue taking medical cannabis as part of their treatment plan while in the hospital – even if they possess a valid physician's recommendation. Ryan's Law seeks to close that gap by allowing

those who most need compassion at the end of life to have access to medical cannabis in an in-patient setting.

The Southern California Coalition states in support that pain is the number one symptom that patients use cannabis for, and those in palliative care are particularly prone to chronic pain. As long as the facility takes reasonable precautions, there is no reason why residents should be denied a substance legal for both medical and adult use.

Americans for Safe Access states that this bill is an act of badly needed compassion, and would bring relief to the most fragile of our citizens, those who are so chronically and desperately ill that they must rely on specialized facilities for their continued existence.

ARGUMENTS IN OPPOSITION: The California Hospital Association (CHA) is opposed to this bill unless it is amended to be enforceable only if medical cannabis is excluded from Schedule I of the federal Controlled Substances Act, or if it is approved by the FDA and either placed on a schedule of the act other than Schedule I or exempted from one or more provisions of the act. According to CHA, it is not opposed to the use of medical cannabis, or even necessarily its use in a hospital. However, CHA states that while California has legalized both the medical and recreational use of cannabis, it remains a Schedule I controlled drug and is illegal under federal law. CHA points to a letter written by CDPH regarding SB 305, the 2019 version of this bill, that stated it would have to cite facilities for allowing the use of medical cannabis by any patients.

The California Association of Health Facilities (CAHF) opposes this bill unless amended, based on the most recent amendments that would require health facilities to treat cannabis as a Schedule II, III, or IV drug. CAHF states that under these amendments, health facilities would be required to comply with requirements for other controlled substances for acquiring a physician order and dispensing from the pharmacy or at least a level of control and accountability through the pharmacy. CAHF states that this puts their health facilities at risk as facility's do not have a DEA license that allows for the purchasing and dispensing of Schedule II-IV medications. This puts the pharmacist in charge in direct conflict of the federal Controlled Substances Act and will put their personal license in jeopardy. Scripps Health opposes this bill for similar reasons to CAHF.

ASSEMBLY FLOOR: 71-1, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen,

Chiu, Choi, 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, Petrie-Norris, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Ramos

NO VOTE RECORDED: Boerner Horvath, Cooley, Cooper, Cunningham, Kiley, Nguyen, Patterson, Seyarto

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
9/9/21 20:58:42

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

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UNFINISHED BUSINESS

Bill No: SB 320
Author: Eggman (D), et al.
Amended: 8/30/21
Vote: 22

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 3/9/21
AYES: Bradford, Ochoa Bogh, Skinner, Wiener

SENATE JUDICIARY COMMITTEE: 11-0, 3/23/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

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: 79-0, 9/9/21 - See last page for vote

SUBJECT: Domestic violence protective orders: possession of a firearm

SOURCE: Giffords Law Center to Prevent Gun Violence

DIGEST: This bill codifies existing Rules of Court related to the relinquishment of a firearm by a person subject to a civil domestic violence restraining order and requires the courts to notify law enforcement and the county prosecutor's office when there has been a violation of a firearm relinquishment order.

Assembly Amendments (1) add ammunition to this bill's provisions; (2) add conforming language; and (3) add double-jointing language from SB 715 (Portantino), AB 1579 (Committee on Judiciary), and AB 1171 (C. Garcia) to avoid chaptering-out issues.

ANALYSIS:

Existing law:

1) Authorizes protective orders to be issued by the civil court in domestic violence cases. (Fam. Code § 6380 et seq.)

2) Provides that when making a protective order where both parties are present in court, the court shall inform both he petitioner and the respondent of the terms of the order, including notice that the respondent is prohibited from owning, possessing, purchasing or receiving or attempting to own, possess, purchase or receive a firearm or ammunition, and including notice of the penalty of the violation. (Fam. Code § 6304.)

3) States that a person who is the subject of a protective order issued by the court shall not own, possess, purchase, or receive a firearm or ammunition while the protective order is in effect. A violation of this prohibition is punishable as either a misdemeanor (owning or possessing a firearm when prohibited from doing so by a restraining order) or a wobbler (purchasing or receiving or attempting to purchase or receive a firearm when prohibited from doing so by a restraining order). (Fam. Code § 6389; Pen. Code § 29825.)

4) States that upon issuance of a restraining order, the court shall order the respondent to relinquish any firearm in the respondent's immediate possession or control or subject to the respondent's immediate possession or control. (Fam. Code § 6389, subd. (c)(1).)

5) States that a law enforcement officer serving a protective order that indicates that the respondent is in possession of firearms shall request that the firearm be immediately surrendered. Alternatively, if a request is not made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm in a safe manner to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified. A receipt shall be issued to the person relinquishing the firearm at the time of relinquishment and the person shall do both of the following within 48 hours of being served with the order:

a) File, with the court that issued the protective order, the receipt showing the firearm was surrendered as required. Failure to timely file a receipt shall constitute a violation of the protective order; and,

b) File a copy of the receipt witch the law enforcement agency that served the protective order. Failure to timely file a copy of the receipt shall constitute a violation of the protective order. (Fam. Code § 6389, subd. (c)(2).)

6) Punishes a willful and knowing violation of a civil domestic violence restraining order issued as contempt of court punishable by imprisonment in county jail for not more than one year, a fine of not more than $1,000, or by both imprisonment and a fine. (Pen. Code § 166, subd. (c)(3).)

7) Authorizes the issuance of a search warrant when the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody of or controlled by, a person who is prohibited by a civil domestic violence restraining order that has been lawfully served, and the restrained person has failed to relinquish the firearm as required. (Pen. Code § 1524, subd. (a)(11).)

8) Provides that, prior to a hearing on the issuance of a civil domestic violence restraining order, the court ensure that a search has been conducted to determine if the subject of the proposed order has a prior criminal conviction for a violent felony or a serious felony, has a misdemeanor conviction involving domestic violence, weapons, or other violence, has an outstanding warrant, is currently on parole or probation; has a registered firearm; or has a prior restraining order or a violation of a prior restraining order. The search shall be conducted of all records and databases readily available and reasonably accessible to the court, as provided. (Fam. Code § 6306, subd. (a).)

9) Provides that if the results of the court's search of records and databases indicate that an outstanding warrant exists against the subject of the order, the court shall order the clerk of the court to immediately notify appropriate law enforcement officials and law enforcement officials shall take all actions necessary to execute any outstanding warrants or any other actions as appropriate and as soon as practicable. (Fam. Code § 6306, subd. (e).)

10) Requires when relevant information is presented to the court at any noticed hearing that a restrained person has a firearm, the court must consider that information to determine, by a preponderance of the evidence, whether the person subject to a protective order has a firearm in his or her immediate possession or control. (Cal. Rules of Court, rule 5.495.)

11) Requires the court, in making the determination of the best interest of the child for purposes of deciding child custody, to consider specified factors, including whether the perpetrator of domestic violence is restrained by a protective order or restraining order and has complied with that order. (Fam. Code § 3044.)

12) Authorizes a juvenile court to issue a domestic violence restraining order, as specified. (Welf. & Inst. Code § 213.5.)

This bill:

1) Codifies California Rule of Court 5.495 related to court procedures when the court is presented with information that a restrained person is in possession of a firearm.

2) Requires the court to provide information about how any firearms or ammunition still in the restrained party's possession are to be relinquished, according to local procedures, and the process for submitting a receipt to the court showing proof of relinquishment.

3) Provides that a court holding a hearing on the matter of whether the respondent has relinquished any firearms or ammunition shall review the file to determine whether the receipt has been filed and inquire of the respondent whether they have complied with the requirement.

4) States that violations of the firearms prohibition of any civil domestic violence restraining order shall be reported to the prosecuting attorney in the jurisdiction where the order has been issued within two business days of the court hearing unless the respondent provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court.

5) States that if the results of the court's search of records and databases indicate that the subject of the order owns a registered firearm or if the court receives evidence of the subject's possession of a firearm or ammunition, the court shall make a written record as to whether the subject has relinquished the firearm and provided proof of the required storage, sale, or relinquishment of the firearm. If evidence of compliance is not provided as required, the court shall order the court of the court to immediately notify law enforcement officials and law enforcement officials shall take all actions necessary to obtain those and any other firearms or ammunition owned, possessed, or controlled by the restrained person and to address the violation of the order as appropriate and as soon as practicable.

6) Requires that the court consider whether a party is a restrained person in possession or control of a firearm or ammunition when making specified determinations related to child custody and visitation matters.

7) Requires the juvenile court to make a determination as to whether the restrained person is in possession or control of a firearm or ammunition.

Comments

According to the author:

> In California, 33% of women and 27% of men experience some form of domestic violence during their lifetimes. We know that the presence of a firearm in the home during an incident of domestic violence increases the risk of homicide by at least 500%. Although California has led the charge when it comes to comprehensive firearm legislation, recovering firearms from those who are mandated to relinquish them has proven to be more difficult.
>
> The Armed Prohibited Persons System (APPS) data show consistently that over 20,000 people in California are armed and prohibited – and that's only identifying those with firearms known to the state of California. California DOJ [Department of Justice] has consistently recommended that steps be taken at the local level to ensure relinquishment as close to the time of prohibition as possible.
>
> Under existing law, when a person is the subject of a domestic violence restraining order they automatically become a prohibited person. In 2014, the Judicial Council adopted Rule 5.495 laying out the procedures courts could take to ensure relinquishment and to coordinate with law enforcement where necessary. Because the rule is optional, it has been implemented inconsistently throughout California. Codifying Rule of Court 5.495, and strengthening requirements for courts to communicate with law enforcement when an order has been violated, demonstrates California's commitment to removing firearms from prohibited persons at the earliest point in time while also ensuring consistent and robust implementation of the policy across all 58 counties of our state.
>
> The inconsistency in implementation is especially concerning in the civil context because the only person with the ability to address the firearm prohibition as close to the time of prohibition as possible is the judge hearing the case. Unlike in the criminal context, there is no outside law enforcement,

probation officer, or prosecutor present in the courtroom to address compliance or violations with the firearms relinquishment process.

In civil domestic violence restraining order cases the burden is too often on the victim to know about the rule of court process and to request that the court conduct a hearing to ensure the restrained person is no longer armed. Making sure courts, litigants, and attorneys know how important it is to address the firearms prohibition at the earliest point possible will protect victims of domestic violence, their families and communities, and law enforcement.

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

According to the Assembly Appropriations Committee:

1) One-time costs (General Fund) of approximately $71,000 to the Department of Justice (DOJ) to modify the California Restraining and Protective Order System (CARPOS) to reflect notification to law enforcement.

2) No costs to the courts given this bill codifies an existing Rule of Court and other current court practices

SUPPORT: (Verified 9/8/21)

Giffords Law Center to Prevent Gun Violence (source)
American Academy of Pediatrics California
Brady California United Against Gun Violence
Brady United Against Gun Violence
California Partnership to End Domestic Violence
Little Hoover Commission
Los Angeles County Bar Association Family Law Section
National Association of Social Workers, California Chapter
Prosecutors Alliance of California

OPPOSITION: (Verified 9/8/21)

None received

ASSEMBLY FLOOR: 79-0, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, 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, 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: Cooley

Prepared by: Stella Choe / PUB. S. /
9/9/21 20:42:32

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

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UNFINISHED BUSINESS

Bill No: SB 323
Author: Caballero (D), et al.
Amended: 8/16/21
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 3/25/21
AYES: McGuire, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE JUDICIARY COMMITTEE: 10-0, 4/20/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener
NO VOTE RECORDED: Borgeas

SENATE FLOOR: 34-1, 5/6/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk
NOES: Bates
NO VOTE RECORDED: Borgeas, Grove, Limón, Melendez, Stern

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

SUBJECT: Local government: water or sewer service: legal actions

SOURCE: Association of California Water Agencies

DIGEST: This bill establishes a 120-day statute of limitations for water and sewer rates.

Assembly Amendments require local agencies to include a statement that water and sewer rates have a 120-day statute of limitations in any written notice of a rate increase, clarify that the 120-day period doesn't apply to billing errors or similar

incorrect charges, and provide that the 120-day period commences after final action on or the effective date of the rate increase, whichever is later.

ANALYSIS:

Existing law:

1) Imposes, pursuant to Proposition 218 (1996) and Proposition 26 (2010), constitutional limits on local officials' ability to impose, increase, and extend fees, including property-related fees.

2) Requires local governments that want to charge a new property-related fee or increase an existing one to:

   a) Identify the parcels to be charged;

   b) Calculate the fee for each parcel;

   c) Notify the parcels' owners in writing about the fee, the reason for imposing or increasing it, the basis for calculating the fee, and the date of a public hearing on the proposed fee;

   d) Hold a public hearing to consider and count protests at least 45 days after mailing the notice; and

   e) Abandon the fees if a majority of the parcels' owners protest.

3) Prohibits new or increased property-related fees from exceeding the proportional cost of service to each parcel.

4) Establishes the Proposition 218 Omnibus Implementation Act to add statutory detail to Proposition 218's requirements.

5) Exempts various charges from some or all of Proposition 218's requirements including to:

   a) Exclude fees for electric and gas service from the definition of property-related fees;

   b) Establish development fees as a separate category of charge not subject to Proposition 218's requirements on fees or taxes; and

   c) Exempt fees for sewer, water, or refuse collection services from Proposition 218's voter approval requirements. However, all the other procedural

requirements in Proposition 218 and the Omnibus Implementation Act apply to fees for water, sewer, and refuse collection services.

6) Establishes procedures for "validating" public agency actions through judicial review.

7) Limits the period of time from the date of an alleged offense for an entity to initiate legal action, known as a "statute of limitations."

8) Establishes a 120-day statute of limitations for challenging an ordinance, resolution, or motion that sets rates for electric service, establishing water or sewer connection fees and capacity charges, or setting the cost of zoning and building permits.

This bill:

1) Establishes a 120-day statute of limitations for any lawsuit that challenges an ordinance, resolution, or motion adopting a fee or charge for water or sewer service, starting from the effective date of, or date of final action on, the fee or charge, whichever is later.

2) Provides that this 120-day period only applies to fees or charges adopted by local agencies after January 1, 2022.

3) Requires local agencies to include a statement that water and sewer rates have a 120-day statute of limitations in any written notice of a new, increased, or extended fee or charge required pursuant to the California Constitution.

4) Requires challenges to be brought under the existing statutes for validation suits, except that the 120-day time period in this bill applies to any action initiated under this bill.

5) Provides that this bill does not apply to:

   a) Any fee or charge for water or sewer service for which another statute establishes a specific time and procedure for bringing a judicial action or proceeding to attack, review, set aside, void or annul a fee or charge of that type.

   b) A judicial action arising from billing errors, including, but not limited to, overbilling, due to the defective implementation of an ordinance, resolution, or motion adopting, modifying, or amending a fee or charge for water or sewer service.

Background

Water rates have been fertile ground for lawsuits since voters approved Proposition 218 in 1996. In February 2020, a class action lawsuit was filed against 81 water agencies throughout the state alleging that their practice of charging ratepayers for the costs associated with supplying water for fire protection violates Proposition 218. This case prompted legislative action to clarify that fire hydrants and the water provided by them are a component of water service (SB 1386, Moorlach, Chapter 240, Statutes of 2020). Some ordinances under the class action lawsuit date back to 2016, meaning that the plaintiffs didn't initiate litigation until four years after the rates were adopted in some cases. The Association of California Water Agencies wants the Legislature to establish a statute of limitations for water and sewer rates.

Comments

1) *Purpose of the bill.* According to the author, "The COVID-19 pandemic has put strain on many essential businesses, including ones that the public depends on for basic needs. Public utilities, such as water and sewer service providers, have experienced a reduction in the number of consumers who are able to pay for their services. Yet because of Governor Newsom's Executive Order prohibiting water shutoffs, water agencies have continued to service every customer regardless of their ability to pay, which has made water districts' revenue and financial planning more unpredictable. In light of this new financial strain, another long standing issue comes into focus that needs to be addressed- the lack of a time line for rate challenges. Other utility agencies, such as electricity, have a 120-day statute of limitations for challenges to rates or charges that have been in effect for decades. This is because lawsuits arising years after rates were adopted create unstable funding for the agency. This statute of limitations has not been extended to water agencies yet, and the inability to plan for such claims effects funding necessary to supply safe drinking water, upgrade and improve aging infrastructure, and operate effectively. That is why I have introduced SB 323, which would require an interested party to bring an action within 120 days after the local water agency adopts the new rate. By allowing customers to bring challenges within a reasonable – but limited – period of time, this proposal would balance the interests of ratepayers with those of public water and sewer agencies and end the current piecemeal character of existing law."

2) *No time like the present.* Proposition 218 established constitutional protections for ratepayers to ensure that they aren't overcharged for the services that they

receive. SB 323 limits the time period that taxpayers have challenge the validity and constitutionality of rates to 120 days. Opponents of this bill argue that this time period is too short to adequately ensure that ratepayers' constitutional rights are protected: if the 120-day deadline passes with no lawsuit, potentially unconstitutional water and sewer rates could be enshrined for years, and residents who move into a district might be subject to these rates without ever having the opportunity to dispute them. On the other hand, the California Supreme Court found that because of the extensive fiscal analysis and public review requirements on connection fees and capacity charges, "…a diligent plaintiff should be able to discover, within the statutory period, whether a cause of action exists." (*Utility Cost Management v. Indian Wells Valley Water District, 26 Cal. 4th 1185*.) SB 323 proposes to add the same 120-day statute of limitations to water rates. Should ratepayers have a longer time to dispute water and sewer rates?

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

According to the Assembly Appropriations Committee:

- Minor costs, if any, for a water or sewer agency to include a statement disclosing the 120-day statute of limitations in its Proposition 218 written notice required to be mailed to ratepayers under existing law. These costs are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates. However, it is unlikely an agency would submit a claim.

SUPPORT: (Verified 9/9/21)

Association of California Water Agencies (source)
Alameda County Water District
Amador Water Agency
Aromas Water District
Bella Vista Water District
Bodega Bay Public Utility District
Brooktrails Township Community Services District
California Association of Sanitation Agencies
California Municipal Utilities Association
California Special Districts Association
Calleguas Municipal Water District
Cities of Brea, Fountain Valley, Garden Grove, Hayward, La Habra, Oceanside, Riverside, Roseville, Sacramento, San Jose, Santa Ana, Santa Monica, Santa Rosa, Shasta Lake, Torrance, Tracy, and Watsonville

Coachella Valley Water District
Corcoran Irrigation District
County of Riverside
Cucamonga Valley Water District
Desert Water Agency
Diablo Water District
East Orange County Water District
East Valley Water District
Eastern Municipal Water District
El Dorado Irrigation District
El Toro Water District
Elk Grove Water District
Elsinore Valley Municipal Water District
Foothill Municipal Water District
Fresno Metropolitan Flood Control District
Helix Water District
Hidden Valley Lake Community Services District
Humboldt Bay Municipal Water District
Humboldt Community Services District
Indian Wells Valley Water District
Inland Empire Utilities Agency
Irvine Ranch Water District
Kings River Conservation District
Lakeside Water District
Las Virgenes Municipal Water District
League of California Cities
Los Angeles County Sanitation Districts
Mariana Ranchos County Water District
Marin Water
Mckinleyville Community Services District
Mercy Springs Water District
Mid-Peninsula Water District
Modesto Irrigation District
Monte Vista Water District
Monterey One Water
Monterey Peninsula Water Management District
Municipal Water District of Orange County
North Coast County Water District
North Marin Water District
Olivenhain Municipal Water District

Otay Water District
Panoche Water District
Pine Grove Community Services District
Princeton Codora Glenn Irrigation District
Provident Irrigation District
Public Water Agencies Group
Rainbow Municipal Water District
Rancho California Water District
Reclamation District #1500
Regional Water Authority
Root Creek Water District
Sacramento Suburban Water District
San Bernardino Municipal Water Department
San Diego County Water Authority
San Francisco Public Utilities Commission
San Juan Water District
Sanitation Districts of Los Angeles County
Santa Clara Valley Water District
Santa Clarita Valley Water Agency
Santa Margarita Water District
Scotts Valley Water District
Sonoma County Water Agency
South San Joaquin Irrigation District
South Tahoe Public Utility District
Southern California Water Coalition
Stege Sanitary District
Tahoe City Public Utility District
Tehama Colusa Canal Authority
Three Valleys Muncipal Water District
Trabuco Canyon Water District
Tuolumne Utilities District
United Water Conservation District
Valley Center Municipal Water District
Vista Irrigation District
Walnut Valley Water District
West County Wastewater District
Western Municipal Water District
Westlands Water District

OPPOSITION: (Verified 9/9/21)

Howard Jarvis Taxpayers Association

ASSEMBLY FLOOR: 77-0, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, 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, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, 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, Rendon
NO VOTE RECORDED: Cooley, Mathis, Nguyen

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
9/9/21 20:51:33

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

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UNFINISHED BUSINESS

Bill No: SB 428
Author: Hurtado (D), et al.
Amended: 9/3/21
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: 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: 78-0, 9/9/21 - See last page for vote

SUBJECT: Health care coverage: adverse childhood experiences screenings

SOURCE: California Medical Association
California Now

DIGEST: This bill requires a health plan contract and health insurance policy issued, amended, or renewed on or after January 1, 2022, that provides coverage for pediatric services and preventive care, as specified, to additionally include coverage for adverse childhood experiences (ACEs) screenings.

Assembly Amendments:

1) Limit the bill to plans and policies that provide coverage for pediatric services and preventive care, as specified.

2) Indicate that cost-sharing is not prohibited.

3) Permit the Department of Managed Health Care (DMHC) and the California Department of Insurance (CDI) to implement the bill issuing guidance, not subject to the Administrative Procedure Act (APA).

4) Permit departmental guidance to apply the rules and regulations for screening for trauma as set forth in the Medi-Cal program as the minimum ACEs coverage requirements for health plans and insurers. Indicate that this does not prohibit a health plans or insurer from exceeding Medi-Cal ACEs coverage requirements.

ANALYSIS:

Existing law:

1) Establishes DMHC to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act); 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 mandates (including medically necessary basic health care services), and 10 Affordable Care Act (ACA) mandated benefits, including habilitative services and devices. Requires non-grandfathered individual and small group health plan contracts and insurance policies to cover these EHBs. [HSC §1367.005 and INS §10112.27]

This bill:

1) Requires a health plan contract and health insurance policy issued, amended, or renewed on or after January 1, 2022, that provides coverage for pediatric services and preventive care, as specified, to additionally include coverage for ACEs screenings. States that this bill does not prohibit health plans and insurers from applying cost-sharing requirements as authorized by law.

2) Defines, "ACEs" as an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or threatening and that has lasting adverse effects on the individual's functioning and physical, social, emotional, or spiritual well-being.

3) Permits DMHC and CDI to adopt guidance, not subject to the APA. Permits departmental guidance to apply the rules and regulations for screening for trauma as set forth in the Medi-Cal program as the minimum ACEs coverage requirements for health plans and insurers, and states that this does not prohibit a health plan or insurer from exceeding the Medi-Cal program's rules and regulations for trauma screening.

Comments

Author's statement. According to the author, recent research has highlighted the link between ACEs and a decline in an individual's long-term health outcomes. A groundbreaking American Journal of Preventive Medicine study demonstrated that a child's exposure to traumatic events substantially impacts his or her long-term health. The findings make identifying a child's exposure to abuse, neglect, discrimination, violence and other adverse experiences—and connecting children and families to early intervention services that can help families heal from trauma or slow or reverse the expected negative health outcomes—a core component of healthcare. This bill seeks to allow providers to screen patients for ACEs and provide necessary services early. It requires a health plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2022, to provide coverage for ACEs screenings. Many experts have warned that the current COVID-19 pandemic is a traumatic stressor--so expanding ACEs coverage now will enable doctors to mitigate what would otherwise become a compounding trauma in the future.

ACEs. According to the Center for Disease Control and Prevention, ACEs are potentially traumatic events that occur in childhood (0-17 years). While not a complete list, some examples include experiencing violence, abuse, or neglect, witnessing violence in the home or community, or having a family member attempt or die by suicide. Also included are aspects of the child's environment that can undermine their sense of safety, stability, and bonding, such as growing up in a household with substance abuse or mental health problems, or instability due to parental separation or household members being in jail or prison. There are many other traumatic experiences that could impact health and wellbeing. ACEs are linked to chronic health problems, mental illness, and substance use problems in adulthood. ACEs can also negatively impact education, job opportunities, and

earning potential. About 61% of adults surveyed across 25 states reported that they had experienced at least one type of ACE, and nearly one in six reported they had experienced four or more types of ACEs. Women and several racial/ethnic minority groups were at greater risk for having experienced four or more types of ACEs. The economic and social costs to families, communities, and society totals hundreds of billions of dollars each year. Up to 1.9 million cases of heart disease and 21 million cases of depression could have been potentially avoided by preventing ACEs.

ACEs screening tools. An ACEs screening evaluates children and adults for trauma that occurred during the first 18 years of life. The ACEs questionnaire for adults (ages 18 years and older) and Pediatric ACEs and Related Life-events Screener (PEARLS) tools for children (ages 0 to 19 years) are both forms of ACEs screening. Both the ACEs questionnaire and the PEARLS tool are acceptable for use for individuals aged 18 or 19 years. The ACEs screening portion (Part 1) of the PEARLS tool is also valid for use to conduct ACEs screenings among adults ages 20 years and older.

Medi-Cal. In November of 2020, CMS approved a state plan amendment that authorizes time-limited payments to support trauma screenings for children and adults, effective January 1, 2020, through December 31, 2021. According to the ACES Aware website, the objective is to reduce ACEs and toxic stress by half in one generation. All providers are encouraged to receive training to screen patients for ACEs. By screening for ACEs, providers can better determine the likelihood a patient is at increased health risk due to a toxic stress response, which can inform patient treatment and encourage the use of trauma-informed care. Detecting ACEs early and connecting patients to interventions, resources, and other supports can improve the health and well-being of individuals and families. *Beginning January 1, 2020, DHCS started to pay Medi-Cal providers $29 per trauma screening for children and adults with Medi-Cal coverage, and by July 2020,* providers were required to self-attest that the training has been completed to be eligible to continue receiving Medi-Cal payment for conducting ACEs screenings.

ACEs Aware. According to the ACES Aware website, billing and coding are based upon the Medi-Cal beneficiary's total ACE score. The ACE score refers to the total reported exposure to the 10 ACE categories indicated in the adult ACE assessment tool or the first box of the PEARLS tool. ACE scores range from 0-10. To bill Medi-Cal, providers use the Healthcare Common Procedure Coding System (HCPCS) billing codes based upon the results of the screening. HCPCS code G9919 is used for screens that have a score of 4 or greater (high risk). HCPCS code G9920 is used for screens that have a score of 0 to 3 (lower risk). Billing

requires that the completed screen was reviewed, the appropriate tool was used, results were documented and interpreted, results were discussed with the beneficiary and/or family, and any clinically appropriate actions were documented. This documentation should remain in the beneficiary's medical record and be available upon request. The website also indicates that providers will not be paid for screening individuals 65 and older.

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

According to the Assembly Appropriations Committee:

1) DMHC anticipates costs of approximately $22,000 and 0.1 PY in FY 2021-22, and $114,000 and 0.6 PY in FY 2022-23 for short-term legal work and review of health plan documents, including Evidence of Coverage, for compliance (Managed Care Fund).

2) CDI estimates costs of $22,000 for FY 2021-22 to review health insurance policy forms for compliance with the specific benefit mandate and issue implementing guidance (Insurance Fund).

3) The California Health Benefits Review Program (CHBRP) analyzed this bill as a health insurance mandate. CHBRP projects an estimated $1,983,000 increase in California Public Employees' Retirement System employer expenditures for annual premiums (General Fund and special funds).

SUPPORT: (Verified 9/2/21)

California Medical Association (co-source)
Children Now (co-source)
American Academy of Pediatrics of California
American College of Obstetricians and Gynecologists District IX
American Nurses Association California
California Academy of Family Physicians
California Children's Hospital Association
California School-Based Health Alliance
California State Association of Psychiatrists
CaliforniaHealth+ Advocates
Children Now Public Health Advocates
Children's Partnership
Children's Specialty Care Coalition
Depression and Bipolar Support Alliance of California
First 5 California

Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
National Association of Social Workers, California Chapter
Public Health Advocates
Steinberg Institute
One individual

OPPOSITION: (Verified 9/2/21)

America's Health Insurance Plans
Association of California Life & Health Insurance Companies
California Association of Health Plans
Department of Finance

ARGUMENTS IN SUPPORT: The California Medical Association, a co-sponsor of this bill, writes screening in primary care settings can help prevent further exposure to adverse experiences, and—when a strong referral system is in place—can provide appropriate education for parents and caregivers about the relationship between early adversity and negative health outcomes. For example, screening can inform a pediatrician's care plan by identifying children who are at high risk for health problems due to toxic stress, which may be an underlying cause of clinical symptoms. By identifying and intervening, there is an opportunity to reverse the neurological and physical effects of severe adversity that are common when not addressed early. Children Now, another co-sponsor, writes California provides the trauma screening benefit for Medi-Cal beneficiaries. This approach has the potential to pathologize poverty, as only low-income families are asked about ACEs, a practice that is not supported by research. Without expanding this screening benefit into the commercial market, California will continue to limit the ability for all families at risk for toxic stress to receive targeted interventions that can reduce the risk of chronic disease later in life. The COVID-19 pandemic has been a stressful and traumatic time for most, and is considered a traumatic event for the broader population. However, without universal screening, it is likely the state will under identify those who suffer from toxic stress. The American College of Obstetricians and Gynecologists District IX writes a core component of health care is connecting children and families to early intervention services that aid families in healing from trauma or slow or reverse unfavorable health outcomes. Findings from the American Journal of Preventive Medicine report that a child's exposure to traumatic events substantially impacts their long-term health. Existing law does not require the commercial market to cover ACEs, limiting the ability for all individuals with ACEs to receive targeted interventions that can later reduce the risk of chronic disease. This bill expands ACEs coverage by allowing providers to

screen patients for ACEs and provide necessary services early on. The California Children's Hospital Association writes without universal screening, it is likely the state will under identify those who suffer from toxic stress. This bill will allow providers to identify individuals' trauma histories, provide necessary services early, and reduce the risk of racial/ethnic and socioeconomic bias. Expanding screening coverage now will enable physicians to mitigate what would otherwise become compounding trauma, ultimately reducing long-term costs in the healthcare system.

ARGUMENTS IN OPPOSITION: Opponents write that this is one of many bills that will increase costs, reduce choice and competition, and further incent some employers and individuals to avoid state regulation by seeking alternative coverage options. The Department of Finance writes that this bill could potentially create General Fund cost pressures within state health programs.

ASSEMBLY FLOOR: 78-0, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, 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, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Cooley, Seyarto

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
9/9/21 20:56:15

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

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UNFINISHED BUSINESS

Bill No: SB 483
Author: Allen (D)
Amended: 9/1/21
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 4/27/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

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

SENATE FLOOR: 26-9, 6/2/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Pan, Roth, Rubio, Skinner, Stern, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Glazer, Grove, Hurtado, Jones, Ochoa Bogh, Wilk
NO VOTE RECORDED: Melendez, Min, Nielsen, Portantino, Umberg

ASSEMBLY FLOOR: 43-25, 9/9/21 - See last page for vote

SUBJECT: Sentencing: resentencing to remove sentencing enhancements

SOURCE: Ella Baker Center for Human Rights

DIGEST: This bill applies retroactively the repeal of sentence enhancements for prior prison or county jail felony terms and for prior convictions of specified crimes related to controlled substances.

Assembly Amendments:

1) State the intent of the Legislature to prohibit a prosecutor or court from rescinding a plea agreement based on a change in sentence as a result of this bill.

2) Clarify that for purposes of this bill's applications to individuals who are currently serving a sentence based on one of the repealed enhancements, all other enhancements shall be considered to have been served first.

3) Replace the requirement that the court administrative amend the abstract of judgement and replaces it with a requirement to recall and resentence the individual to remove any invalid sentence enhancements.

4) State that resentencing shall not result in a longer sentence than the one originally imposed.

5) Require the court to appoint counsel for an individual subject to resentencing.

6) Specify that the parties may waive a resentencing hearing, but if the hearing is not waived, the resentencing hearing may be conducted remotely through the use of remote technology, if the defendant agrees.

7) Delay the date by which the court shall review and resentence individuals who have served their base term and any other enhancement and is currently serving a sentence based on the enhancement from July 1, 2022 to October 1, 2022.

ANALYSIS:

Existing law:

1) Required, until January 1, 2020, a sentencing court to impose an additional one-year term of imprisonment for each prior prison or county jail felony term served by the defendant for a non-violent felony. (Former Pen. Code § 667.5, subd. (b), repealed January 1, 2020.)

2) Required, until January 1, 2018, a sentencing court to impose on a defendant convicted of specified crimes related to controlled substances, an additional three-year term for each prior conviction of specified crimes related to controlled substances. (Health & Saf. § 11370.2, repealed January 1, 2018.)

This bill:

1) States that any sentence enhancement imposed prior to January 1, 2020, for a prior separate prison or county jail felony term, except if the enhancement was for a prior conviction of a sexually violent offense, is legally invalid.

2) States that any sentence enhancement imposed prior to January 1, 2018, for a prior conviction for specified crimes related to controlled substances, except if

the enhancement was imposed for a prior conviction of using a minor in the commission of offenses involving specified controlled substance, is legally invalid.

3) Requires the Secretary of the Department of Corrections and Rehabilitation (CDCR) and the county correctional administrator of each county to identify those persons in their custody currently serving a term for judgment that includes one of the repealed enhancements and to provide the name of each person, along with the person's date of birth and relevant case number or docket number, to the sentencing court that imposed the enhancement. This information shall be provided as follows:
   a) By March 1, 2022, for individuals who have served their base term and any other enhancement and are currently serving a sentence based on the enhancement. For purposes of this paragraph, all other enhancements shall be considered to have been served first.
   b) By July 1, 2022, for all other individuals.

4) States that upon receiving the information, the court shall review the judgment and verify that the current judgement includes one of the repealed enhancements and the court shall recall the sentence and resentence the defendant. The review and resentencing shall be completed as follows:
   a) By October 1, 2022, for individuals who have served their base term and any other enhancement and are currently serving a sentence based on the enhancement; and,

   b) By December 31, 2023, for all other individuals.

5) States that resentencing shall result in a lesser sentence than the one originally imposed, unless the court finds by clear and convincing evidence that imposing a lesser sentence would endanger public safety. Resentencing shall not result in a longer sentence than originally imposed.

6) States that unless the court originally imposed the upper term, the court may not impose a sentence exceeding the middle term unless there are circumstances in aggravation that justify the imposition of a term of imprisonment exceeding the middle term, and those facts have been stipulated to by the defendant, or have been found true beyond a reasonable doubt at trial by the jury or by the judge in a court trial.

7) Allows the court to consider post-conviction factors at resentencing.

8) Requires the court to appoint counsel.

9) States that the parties may waive a resentencing hearing. If the hearing is not waived, the resentencing hearing may be conducted remotely through the use of remote technology, if the defendant agrees.

10) States that the Legislature finds and declares that in order to ensure equal justice and address systemic racial bias in sentencing, it is the intent of the Legislature to retroactively apply SB 180 (Mitchell, Chapter 677, Statutes of 2017) and SB 136 (Wiener, Chapter 590, Statutes of 2019) to all persons currently serving a term of incarceration in jail or prison for these repealed sentence enhancements.

11) States that it is the intent of the Legislature that any changes to a sentence as a result of this bill shall not be a basis for a prosecutor or court to rescind a plea agreement.

Comments

According to the author:

> In recognition of the harms that long periods of incarceration have on community safety and well-being, the California Legislature prospectively eliminated two automatic criminal sentencing enhancements for prior convictions. As recommended by the state's Committee on Revision of the Penal Code, SB 483 will retroactively apply the elimination of those enhancements to people currently held in prisons and jails, ensuring that no one is serving time based on outdated rules.
>
> A robust body of research finds that long prison and jail sentences have no positive impact on public safety, yet are documentably injurious to families and communities—particularly Black, Latino, and Native Americans in the United States and in California.
>
> People returning from incarceration face significant barriers to finding jobs and housing. Family members of incarcerated people struggle with crushing debt from court costs, visitation and telephone fees, and diminished income. The longer the sentence, the more severe these problems tend to be, and the tougher it is for societal reintegration.
>
> In 2017 and 2019, the Legislature and Governor repealed ineffective sentence enhancements (laws called RISE Acts) that added three years of incarceration for each prior drug offense (SB 180, Mitchell) and one year for each prior prison or felony jail term (SB 136, Wiener). However, the reforms applied only

prospectively to cases filed after these important bills became law. People in California jails and prisons who were convicted prior to the RISE Acts are still burdened by mandatory enhancements. These burdens fall particularly hard on communities destabilized by decades of mass incarceration. Of those in prison because of ineffective enhancements, three-fourths are people of color.

Recent studies by the U.S. Sentencing Commission found retroactive application of sentence reductions in the federal system had no measurable impact on recidivism rates; an analysis of the prison populations in Maryland, Michigan, and Florida came to similar conclusions.

In light of this research, and following the guidance of a wide array of stakeholders, the California Committee on Revision of the Penal Code unanimously recommended the retroactive elimination of California's one- and three- year enhancements.

SB 483 applies the law equally by retroactively applying California's elimination of ineffective three-year and one-year sentence enhancements.

Recommended by numerous experts and reform advocates, it will modestly reduce prison and jail populations and advance fairness in our criminal legal system.

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

According to the Assembly Appropriations Committee:

1) One-time costs (Trial Court Trust Fund), possibly in the millions of dollars to trial courts for court clerks and judges to process inmate information from both CDCR and county correctional administrators, amend abstracts of judgment and delete repealed enhancements from court records, and, if a hearing is not waived, for the court to hear, review and verify the existing judgement. An hour of court time costs approximately $1,000 in staff workload. If court staff in one county spends 30 minutes on the abstract and judgment for each inmate serving time on a repealed enhancement, four cases per day for 500 days leading up to December 31, 2023, the cost would be $1 million. If a court is required is required to hold a hearing, costs will be higher depending on how long it takes to verify the elimination of the enhancement. If a hearing takes four hours, 100 hearings statewide would cost $400,000 annually.

   Costs across all 58 counties will vary depending on the number of cases that included the repealed enhancements. Los Angeles, San Diego, Orange, Fresno

and Sacramento counties are likely to receive thousands of requests. Costs will decline as convictions are removed from abstract of judgments given these enhancements may no longer be applied in ongoing cases.

Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund and staff workload may create a need for increased funding for courts from the General Fund (GF) to perform existing duties. This is particularly true given that courts have delayed hundreds of trials and civil motions during the COVID-19 pandemic resulting in a serious backlog that must be resolved. The Budget Act of 2021 allocates $118.3 million from the GF to backfill continued reduction in fine and fee revenue for trial court operations and $72 million in ongoing GF revenue for trial courts to continue addressing the backlog of cases caused by the pandemic.

2) Costs (GF) of approximately $61,000 to CDCR in overtime for case records analysts to review and identify inmates eligible for referral to the sentencing court as required by this bill.

3) Possibly reimbursable costs to counties, in the hundreds of thousands of dollars to low millions of dollars, across all 58 counties for county jail staff to review inmate records and identify inmates eligible for referral to the sentencing court and for county prosecutors and public defenders to litigate re-sentencing hearings.

SUPPORT: (Verified 9/8/21)

Ella Baker Center for Human Rights (source)
A New Path
ACLU California Action
Asian Prisoner Support Committee
Bend the Arc: Jewish Action
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Public Defenders Association
Californians for Safety and Justice
Californians United for A Responsible Budget
Center for Living and Learning
Children's Defense Fund - California
Courage California
Dignity and Power Now
Drug Policy Alliance
Fair Chance Project

Friends Committee on Legislation of California
Harm Reduction Coalition
Human Impact Partners
Immigrant Legal Resource Center
Initiate Justice
John Burton Advocates for Youth
Justice LA
Kehilla Community Synagogue
Legal Services for Prisoners With Children
Prevention At the Intersections
Prison Law Office
Prison Policy Initiative
Prosecutors Alliance of California
Re:store Justice
Root & Rebound
San Francisco Peninsula People Power
San Francisco Public Defender
Secure Justice
Showing Up for Racial Justice Bay Area
Showing Up for Racial Justice Marin
Smart Justice California
Starting Over Inc.
The W. Haywood Burns Institute
Uncommon Law
Women's Foundation California
YWCA Berkeley/Oakland

OPPOSITION: (Verified 9/8/21)

California Narcotics Officers' Association

ASSEMBLY FLOOR: 43-25, 9/9/21
AYES: Aguiar-Curry, Bauer-Kahan, Bennett, Berman, Bloom, Mia Bonta, Bryan, Burke, Carrillo, Chau, Chiu, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Nazarian, O'Donnell, Quirk, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Boerner Horvath, Chen, Choi, Cooper, Cunningham, Megan Dahle, Davies, Flora, Fong, Frazier, Gallagher, Gray, Irwin, Kiley, Lackey,

Mathis, Nguyen, Patterson, Petrie-Norris, Salas, Seyarto, Smith, Valladares, Voepel

NO VOTE RECORDED: Arambula, Calderon, Cervantes, Cooley, Maienschein, Mayes, Muratsuchi, Quirk-Silva, Ramos, Rodriguez, Villapudua, Waldron

Prepared by: Stella Choe / PUB. S. /
9/9/21 20:44:32

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

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UNFINISHED BUSINESS

Bill No: SB 510
Author: Pan (D)
Amended: 9/3/21
Vote: 21 - Majority

SENATE HEALTH COMMITTEE: 9-1, 4/7/21
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Grove
NO VOTE RECORDED: Melendez

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

SENATE FLOOR: 32-7, 6/1/21
AYES: Allen, Archuleta, Atkins, Becker, Borgeas, 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, Dahle, Grove, Jones, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 55-17, 9/9/21 - See last page for vote

SUBJECT: Health care coverage: COVID-19 cost sharing

SOURCE: California Medical Association

DIGEST: This bill requires health plans and insurers to cover the costs associated with COVID-19 testing, immunization, and health care services related to testing with no cost-sharing or prior authorization or other utilization management during and following the federal public health emergency.

Assembly Amendments clarify that the bill requires coverage for diagnostic and screening testing and includes definitions for diagnostic and screening testing,

including testing of workers in workplace settings and students, faculty and staff in school settings; and remove the urgency clause.

ANALYSIS:

Existing federal law:

1) Requires health plans and issuers to provide coverage with no cost sharing, prior authorization, or other medical management requirements, for diagnostic products to detect COVID-19 and the administration of diagnostic products that are approved, cleared, authorized, or emergency use authorization has been requested by the federal Food and Drug Administration (FDA). [Section 6001 of the federal Families First Coronavirus Response Act (Public Law 116-136)]

2) Requires health plans and issuers to reimburse the provider of COVID-19 diagnostic tests at the negotiated rate in effect before the public health emergency for the duration of the public health emergency. Requires health plans and issuers to reimburse providers that have no negotiated rate in an amount that equals the cash price for such service as listed by the provider on a public website or the plan or issuer may negotiate a rate with the provider for less than the cash price. [Section 3202 of the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act. (Public Law 116-136)]

3) Requires health plans and issuers to cover, without cost sharing any qualifying coronavirus preventative service, including an item, service, or immunization that is intended to prevent or mitigate COVID-19 that is an evidence based item or service that has in effect a rating of "A" or "B" in the current recommendations of the United States Preventive Services Task Force (USPSTF) or an immunization that has in effect a recommendation from the Advisory Committee on Immunization Practices (ACIP) of the federal Centers for Disease Control and Prevention (CDC). [Section 3203 of the federal CARES Act (Public Law 116-136)]

Existing state law establishes the Department of Managed Health Care (DMHC) to regulate health plans, the California Department of Insurance (CDI) to regulate health insurance, and the California Department of Public Health (CDPH) to examine the causes of communicable diseases in man and animals occurring or likely to occur in the state. [HSC §1340, et seq., INS §106, et seq., and HSC §120125, et seq.]

This bill:

1) Requires health plans and disability insurers that cover medical, surgical, and hospital benefits to cover the costs for COVID-19 diagnostic and screening testing and health care services related to testing approved or granted emergency use authorization by the FDA for COVID-19.

2) Prohibits health plans and disability insurers from imposing a copayment, coinsurance, deductible, or any other form of cost sharing. Requires COVID-19 diagnostic and screening testing and services coverage to include, but not be limited to, hospital or health care provider office visits for the purpose of testing, products related to testing, administering testing, and items and services furnished to an enrollee or insured as part of testing.

3) Prohibits health plans and disability insurers from imposing prior authorization or any other utilization management requirements on COVID-19 diagnostic and screening testing or any item, service, or immunization intended to mitigate or prevent COVID-19.

4) Requires health plans and insurers to reimburse the provider of COVID-19 diagnostic and screening testing and immunizations at the specifically negotiated rate during the public health emergency, or if there is no specifically negotiated rate, allows plans and insurers to negotiate a rate with providers. Requires health plans and insurers to reimburse out-of-network providers, which do not have a negotiated rate, for all testing items or services at a reasonable rate as determined in comparison to prevailing market rates for items or services in the geographic region.

5) Requires a change to a contract between a health plan and a health care provider that delegates financial risk for testing or immunizations, related to a public health emergency, to be a material change to the parties' contract, and prohibits a health plan from delegating the financial risk to a contracted health care provider unless the parties have specifically negotiated and agreed upon a new contract provision, as specified.

6) Requires health plans and insurers to cover, without cost sharing, any item, service, or immunization intended to prevent or mitigate COVID-19, regardless of the service being delivered by an in-network or out-of-network provider, that meets either of the criteria with respect to the individual enrollee:

a) Evidence-based item or service that has in effect a rating of "A" or "B" in the current recommendations of the USPSTF; or,
b) An immunization that has in effect a recommendation from the ACIP of the CDC, regardless of whether the immunization is recommended for routine use.

7) Requires health plans and insurers to cover the item, service, or immunization that is intended to prevent or mitigate COVID-19 no later than 15 business days after the date that USPSTF or ACIP make a recommendation relating to the item, service, or immunization.

8) Requires 1) - 7) above to remain in effect after the expiration of the federal public health emergency. Requires health plans and insurers to cover COVID-19 diagnostic and screening testing and items or services necessary for furnishing items, service or immunizations without cost-sharing when delivered by an out-of-network provider except following the expiration of the federal public health emergency.

9) Applies 1) – 7) retroactively beginning from the Governor's declared State of Emergency related to the SARS-CoV-2 (COVID-19) pandemic on March 4, 2020.

10) Requires health plan and insurers that cover medical, surgical, and hospital benefits to cover health care services to prevent or mitigate a disease when the Governor of California has declared a public health emergency due to that disease. The item, service, or immunization must be covered no later than 15 business days after the date on which USPSTF or the ACIP makes a recommendation relating to the item, service, or immunization. Requires the following to be covered without cost sharing or prior authorization or other utilization management:

a) Item, or service, or immunization recommended by USPSTF or ACIP; and,
b) Health care service or product related to testing for the pandemic disease that is approved or granted emergency use authorization by the FDA, or is recommended by CDPH or the CDC.

11) Defines "Diagnostic testing" as all of the following:

a) Testing intended to identify current or past infection and performed when a person has signs or symptoms consistent with COVID-19, or when a

person is asymptomatic but has recent known or suspected exposure to SARS-CoV-2.
b) Testing a person with symptoms consistent with COVID-19.
c) Testing a person as a result of contact tracing efforts.
d) Testing a person who indicates that they were exposed to someone with a confirmed or suspected case of COVID-19.
e) Testing a person after an individualized clinical assessment by a licensed health care provider.

12) Defines "Screening testing" as tests that are intended to identify people with COVID-19 who are asymptomatic and do not have known, suspected, or reported exposure to SARS-CoV-2. Screening testing helps to identify unknown cases so that measures can be taken to prevent further transmission. Screening testing includes all of the following:

a) Workers in a workplace setting.
b) Students, faculty, and staff in a school setting.
c) A person before or after travel.
d) At home for someone who does not have symptoms associated with COVID-19 and does not have a known exposure to someone with COVID-19.

13) Permits DMHC and CDI to adopt regulations to implement this bill.

14) Includes a severability provision in the event any of this bill's provisions is held invalid.

Comments

According to the author, many people seeking testing for COVID-19 were met with surprise billing for "administrative fees" or had to pay out-of-pocket for out-of-network providers. Both federal and state lawmakers moved quickly to attempt to reconcile these issues, but problems still persist today with insurers and providers charging enrollees inappropriately. This bill requires health plans and insurers to cover COVID-19 testing and vaccination without cost sharing or prior authorization requirements provided both in-network and out-of-network during the public health emergency. The research has been clear from the beginning, testing and immunization against COVID-19 is how we stop the spread and eventually put a stop to this pandemic. This bill will also prohibit balance billing by providers for COVID-19 testing and immunization even after the federal public health emergency expires. Individuals need to be able to access these critical

services without the fear of receiving a surprise bill. We can already take lessons learned from this pandemic and set in place a framework for allowing federally approved testing and immunizations with no-cost sharing for a future disease related public health emergency. California needs a consistent approach among health plan partners, stakeholders, and beneficiaries to combat COVID-19 and to have an existing framework for the future.

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. Health and Human Services Agency has indicated the federal public health emergency is likely to remain in place for the entirety of 2021. As of September 9, 2021, COVID19.CA.GOV reports 4,322,361 positive cases of COVID-19 and 66,257 deaths in California, with a disproportionate impact on communities of color. Also, as of this date, 85,232,285 tests and 47,621,874 vaccines have been administered.

Federal law and guidance. In March 2020, two federal legislative efforts passed: the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which among other provisions, required most health plans and insurers to provide coverage for COVID-19 testing and related services with no cost sharing to beneficiaries. Federal guidance from CMS has been published since the passage of FFCRA and the CARES Act to clarify health plans and insurer's responsibility regarding testing and vaccinations. CMS published guidance on February 26, 2021 clarifying that private group health plans generally cannot use medical screening criteria to deny coverage for COVID-19 tests for asymptomatic individuals or those without known exposure. The guidance also states health plans must cover point-of-care COVID-19 tests and tests that are administered at a state or local testing site. CMS guidance does permit health plans and insurers to deny coverage for COVID-19 tests for public health surveillance or employment purposes. However, CMS guidance also states that when an individual receives a COVID-19 test from a licensed or authorized provider, plans and insurers generally must assume the test reflects an "individualized clinical assessment" and should be covered without any cost sharing.

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

According to the Assembly Appropriations Committee:

1) Based on federal law and regulations, this bill appears to have minimal costs during the COVID-19 pandemic. The California Health Benefit Review Program (CHBRP) could identify no measurable costs for this bill with respect the COVID-19 emergency. With respect any yet-unknown future pandemic, costs are unknown.

2) According to the Department of Health Care Services, COVID-19 testing and treatment are covered under Medi-Cal managed care plan (MCP) contracts but because the immunization costs are carved out of MPC contracts, it is difficult to determine plan responsibility for services currently paid by the federal government, now or in the future.

3) Regulatory costs to the California Departments of Insurance and Managed Health Care are expected to be minor and absorbable, less than $10,000 in fiscal year 2021-22, less than $20,000 in FY 2022-23 and under $1,000 in ongoing costs (Insurance Fund, Managed Care Fund).

SUPPORT: (Verified 9/9/21)

California Medical Association (source)
Altamed Health Services Corporation
America's Physician Groups
California Academy of Family Physicians
California Association of Health Facilities
California Chapter of American College of Emergency Physicians
California Chronic Care Coalition
California Clinical Laboratory Association
California Department of Insurance
California Federation of Teachers, AFL-CIO
California Orthopedic Association
California Retired Teachers Association
California Society of Health-System Pharmacists
California Teachers Association
CaliforniaHealth+ Advocates
Health Access California
National Association of Social Workers, California
Psychiatric Physicians Alliance of California
SEIU California

Western Center on Law and Poverty

OPPOSITION: (Verified 9/9/21)

America's Health Insurance Plans
Association of California Life and Health Insurance Companies
California Association of Health Plans
Department of Finance

ARGUMENTS IN SUPPORT: The California Medical Association (CMA), the sponsor of this bill, writes that this bill is necessary to ensure that the COVID-19 testing and vaccination standard is maintained in California and to ensure that it is applied in future public health emergencies so patients can receive the care they need in a timely fashion and with no out-of-pocket costs. Federal and state policies have been adopted to mandate private health insurance coverage without cost sharing and many directives have been issued through regulatory and subregulatory guidance. On October 2, 2020, CDI published guidance outlining requirement on insurers regarding waiving cost-sharing and prohibiting prior authorization for COVID-19 testing and screening. CMA states in contrast, that DMHC released emergency regulations on July 17, 2020 which created a tiered system, whereby there were different criteria for testing eligibility, whether a patient cost-sharing is allowed, and whether a prior authorization may be required for each tier. This created confusion about what testing and vaccine coverage requirements are and whether patients may be held responsible for cost-sharing amounts. Federal guidance has since clarified that patients would not be held responsible for cost-sharing amounts and would not be subject to utilization management requirements through the end of the declared emergency. Health Access California writes throughout the pandemic, discrepancies have occurred between guidance issued federally and by the state, which has at times resulted in confusion over who may qualify for testing and immunization free of cost-sharing, and via which providers. The Psychiatric Physicians Alliance of California write that psychiatrists think it is important to codify current emergency executive orders related to testing and vaccinations so that patients and providers can confidently predict the costs and conditions imposed by the state moving forward in the current pandemic, moving out of the current pandemic, and is prepared to face future pandemics.

ARGUMENTS IN OPPOSITION: America's Health Insurance Plans (AHIP), the Association of California Life and Health Insurance Companies (ACLHIC), and the California Association of Health Plans (CAHP), believe the retroactivity

provisions are unconstitutional, and the bill is inconsistent with federal guidance. The opposition writes that federal law and state regulations are clear that health plans and insurers must provide diagnostic and medically appropriate testing for COVID-19. AHIP, ACLHIC and CAHP believe that clinical testing of an individual for diagnosis and to guide medical care is appropriate and are concerned that omitting this distinction could cause confusion among patients seeking a test, and recommend that the bill be amended to include "diagnostic and medically necessary testing," which would conform to state and federal law. AHIP, ACLHIC and CAHP are also concerned that this bill does not establish a clear methodology for reimbursing out-of-network providers. Currently the bill requires health plans and insurers to reimburse out-of-network providers for all testing items or services at a "reasonable" rate. Understanding that there is often much disagreement with respect to what constitutes a "reasonable rate" they recommend considering the Medicare rate as an appropriate alternative. Lastly, AHIP, ACLHIC and CAHP believe that the provision addressing future pandemics contained in this bill are premature. The Department of Finance believes this bill could potentially create future cost pressures within state health programs.

ASSEMBLY FLOOR: 55-17, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, 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, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Cooley, Frazier, Mathis, Mayes, Nazarian, Nguyen, Quirk, Villapudua

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
9/9/21 21:01:04

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

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

UNFINISHED BUSINESS

Bill No: SB 512
Author: Min (D), et al.
Amended: 9/1/21
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 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: 79-0, 9/9/21 - See last page for vote

SUBJECT: Public postsecondary education: support services for foster youth: Cooperating Agencies Foster Youth Educational Support Program

SOURCE: California Youth Connection
John Burton Advocates for Youth

DIGEST: This bill expands eligibility for priority enrollment for current and former foster youth at the University of California (UC), California State University (CSU), and California Community Colleges (CCC), and expands eligibility for a student support program for current and former foster youth at the CCCs.

Assembly Amendments delete the prior contents of this bill relative to transportation, and replace it with the current contents relative to foster youth and postsecondary education.

ANALYSIS:

Existing law:

Priority enrollment

1) Requires each campus of the CSU and CCC, and requests each campus of the UC, to grant priority enrollment to current and former foster youth and current and former homeless youth. (Education Code (EC) § 66025.9)

2) Defines current or former foster youth as a person in California whose dependency was established or continued by the court on or after the youth's 16th birthday and who is no older than 25 years of age at the commencement of the academic year. (EC § 66025.9)

Cooperating Agencies Foster Youth Educational Support Program (NextUp)

3) Authorizes the CCC Chancellor's Office to enter into agreements with up to 20 community college districts to provide additional funds for services in support of postsecondary education for foster youth. Existing law provides that services are to include, when appropriate, outreach and recruitment, consultation and eligibility verification, consultation and referrals for students deemed ineligible, service coordination, counseling, book and supply grants, tutoring, independent living and financial literacy skills support, frequent in-person contact, career guidance, transfer counseling, child care and transportation assistance, and referrals to health services, mental health services, housing assistance, and other related services. (EC § 79220)

4) Requires a student participant in this program to meet both of the following requirements: (a) be a current or former foster youth in California whose dependency was established or continued by the court on or after the youth's 16th birthday; and (b) be no older than 25 years of age at the beginning of any academic year in which the student participates in the program. (EC § 79222)

5) Establishes as eligibility criteria, among other things, that the student qualify to receive a fee waiver with a calculated Expected Family Contribution of $0. (California Code of Regulations, Title 5, § 56403)

This bill:

1) Expands eligibility for priority enrollment at UC, CSU, and the CCCs by changing the age that dependency was established or continued by the court from the youth's 16th birthday to the youth's 13th birthday.

2) Expands eligibility for participation in the NextUp program for current and former foster youth at CCCs by changing the age that dependency was established or continued by the court from the youth's 16th birthday to the youth's 13th birthday.

3) Authorizes NextUp programs to provide services, including direct financial support, to enrolled students who meet all eligibility requirements but whose courses have not yet begun, and who have completed required matriculation activities, if the direct financial support is necessary to enable the student to be successful upon the beginning of the academic term.

4) Requires regulations to ensure that program application and enrollment processes are streamlined and do not impose barriers to entry.

5) Requires regulations to allow programs to exercise professional judgment to waive any income criteria specified in the regulations as a condition of eligibility, provided that income-eligible students have first priority.

6) Clarifies that, for American Indian students, homelessness may be identified by a representative of the student's tribe or a representative of a tribal organization that is a homeless services provider.

Comments

Previously heard in the Senate as SB 228 (Leyva). When this bill left the Senate on June 1, 2021, it authorized the California Transportation Commission (CTC) to relinquish to the City of Coronado the portion of State Route (SR) 75 within its city limits and the entirety of SR 282.

This bill was amended in the Assembly on June 10, 2021, to delete the previous provisions and insert provisions that are virtually identical to SB 228 (Leyva), which is on the Inactive File on the Senate Floor.

Need for this bill. According to the author, "Foster youth face several barriers to accessing higher education, including the NextUp program which is meant to help

rather than pose additional barriers. SB 512 will remove these barriers and expand eligibility for priority enrollment at the UC, CSU and CCC for students who were in foster care on or after their 13th birthday, aligning with FAFSA. It's important that we remove existent barriers for foster youth because they are a vulnerable population of students who already experience unique challenges and barriers to higher education without the NextUp program."

NextUp. The Student Success Task Force reported that students who maintained full-time enrollment (12 units) were more likely to meet their educational goals. Regulations established eligibility for student support to include full-time enrollment. However, reports specific to educational outcomes of foster youth found that maintaining full-time enrollment is an obstacle for students who are current or former foster youth; many do not continue to attend beyond the first year. As a result, legislation established the "Cooperating Agencies Foster Youth Educational Support Program" in statute in 2015. In 2017, the CCC Chancellor's Office changed name of this program to "NextUp." The goal is to provide the support and services to students necessary to assist them in meeting the requirements of the Student Success Act.

A student is eligible to be served by the NextUp program if the student is a current or former foster youth who was in care on or after the student's 16th birthday, is enrolled in at least 9 units, and is not older than 25 years of age at the beginning of the academic term in which the student participates in NextUp.

The NextUp program provides traditional student support services such as orientation, in addition to outreach and recruitment, consultation and eligibility verification, consultation and referrals for students deemed ineligible, service coordination, counseling, book and supply grants, tutoring, independent living and financial literacy skills support, frequent in-person contact, career guidance, transfer counseling, child care and transportation assistance, and referrals to health services, mental health services, housing assistance, and other related services.

Existing law requires the CCC Board of Governors to submit a report by March 31, 2020 and biennially thereafter, describing its efforts to serve students who are current and former foster youth, and include:

1) A review on a campus-by-campus basis of the enrollment, retention, transfer, and completion rates of foster youth, including categorical funding of those programs.

2) Recommendations on whether and how the program under this article can be expanded to all community college districts and campuses.

The CCC Chancellor's Office recently released the report, which includes the following recommendations: (1) remove the cap on the number of participating districts to allow strategic expansion and innovation of the NextUp program across the California Community Colleges system; and (2) broadening NextUp program eligibility criteria by including students who have been in foster care on or after their 13th birthday. [https://www.cccco.edu/-/media/CCCCO-Website/Reports/cccco-nextup-report-043021-a11y.pdf?la=en&hash=C86651F0F50089EB083C21E25BAFAEB5E8DA92E1]

Age in foster care. Community college students who were in foster care on or after their 16th birthday are eligible to participate in the NextUp program. This bill expands eligibility to include students who were in foster care on or after their 13th birthday. This bill also expands eligibility for priority enrollment at UC, CSU and the CCCs by including students who were in foster care on or after their 13th birthday. These changes align the age threshold with the determination for independent status used by the FAFSA (age 13). It is estimated that an additional 1,100 students would be eligible to participate in the NextUp program, and an additional 2,500 students would be eligible for priority enrollment across the public segments of postsecondary education. The NextUp program serves approximately 2,100 current and former foster youth, while the CCC Chancellor's Office estimates nearly 13,000 current or former foster youth were enrolled in California's community colleges (pre-COVID).

Income criteria. This bill requires regulations to allow NextUp programs to exercise professional judgment to waive any income criteria specified in the regulations as a condition of eligibility for participation in NextUp, provided that income-eligible students have first priority. Pursuant to existing regulations, to be income-eligible to participate in NextUp, a student must qualify to receive a California College Promise Grant (CCPG), formerly known as the Board of Governors (BOG) Fee Waiver, *and* have a calculated Expected Family Contribution (EFC) of $0. Students must meet one of the following to be eligible for the CCPG:

1) Have a total income in the prior year equal to or less than 150 percent of the federal poverty level.

2) Have an EFC as determined by federal methodology that is equal to zero.

3) Be determined financially eligible for federal and/or state needed-based financial aid.

4) Be a current recipient of Temporary Assistance for Needy Families, Supplemental Security Income or General Assistance.

According to the sponsors, flexibility is needed specific to the requirement for a student's EFC to be zero. Students who have worked in the prior year, for example, still have financial need yet have an EFC above zero. These students are currently not eligible to participate in the NextUp program. NextUp programs work closely with campus financial aid offices, and would continue to do so to determine a student's financial need even with an EFC above zero. Additionally, this bill provides that income-eligible students (those with an EFC of zero) have first priority to participate in the NextUp program.

When services may be provided. This bill authorizes NextUp programs to provide services, including direct financial support, to enrolled students who meet all eligibility requirements but whose courses have not yet begun, and who have completed required matriculation activities, if the direct financial support is necessary to enable the student to be successful upon the beginning of the academic term. According to a verbal opinion provided by the CCC Chancellor's Office, direct financial support may be provided only once courses have begun. This restriction can create challenges for students who may need a books and supply grant, for example, prior to the first day of classes.

Regulations. This bill requires regulations to ensure that program application and enrollment processes are streamlined and do not impose barriers to entry. This bill does not specifically require regulations to be developed or modified; presumably regulations would be adjusted pursuant to the traditional process. The goal, while not directed by the bill, is to have regulations that address existing barriers such as a requirement to apply first to Extended Opportunity Programs and Services (EOPS) and then to NextUp, or the imposition of a deadline to apply to NextUp when the EOPS program is impacted.

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

According to the Assembly Appropriations Committee:

1) Ongoing redistribution, potentially in the millions of dollars annually, of Proposition 98 General Fund (GF) from the NextUp program to expand program eligibility, rather than provide additional funding to currently eligible program participants. In addition, potential Proposition 98 GF cost pressures to

the extent more students become eligible and participate than can be served within existing program funding.

2) Minor to no GF or Proposition 98 GF costs to UC, CSU or CCC to expand eligibility for priority enrollment. However, if the Commission on State Mandates determines this requirement imposes a state-mandated local program on CCC, the state would need to reimburse those costs.

SUPPORT: (Verified 9/8/21)

California Youth Connection (co-source)
John Burton Advocates for Youth (co-source)
Beyond Emancipation
Butte College
California Alliance of Child and Family Services
California Community Colleges, Chancellor's Office
California Court Appointed Special Advocate Association
California State University, Office of The Chancellor
Children Now
City of Los Angeles
Coastline College
College of The Desert
Cuyamaca College
David & Margaret Youth and Family Services
Doing Good Works
EveryChild Foundation
Excite Credit Union
First Place for Youth
First STAR
Foster Care Counts
Hillsides
Merced College
National Association of Social Workers, California Chapter
National Institute for Criminal Justice Reform
One Day, Inc.
Pasadena City College NextUp
Path Scholars at California State University, Chico
Porterville College
Public Counsel
Reedley College
Rio Hondo College

Santa Rosa Junior College

OPPOSITION: (Verified 9/8/21)

None received

ASSEMBLY FLOOR: 79-0, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, 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, 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: Cooley

Prepared by: Lynn Lorber / ED. / (916) 651-4105
9/9/21 20:48:33

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

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UNFINISHED BUSINESS

Bill No: SB 533
Author: Stern (D)
Amended: 9/1/21
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 9-3, 4/19/21
AYES: Hueso, Becker, Eggman, Gonzalez, Hertzberg, McGuire, Min, Rubio, Stern
NOES: Dahle, Borgeas, Grove
NO VOTE RECORDED: Bradford, Dodd

SENATE JUDICIARY COMMITTEE: 9-2, 4/27/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Jones
NO VOTE RECORDED: Bates

SENATE FLOOR: 36-0, 6/2/21
AYES: Allen, Archuleta, Atkins, Bates, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Borgeas, Jones, Melendez, Nielsen

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

SUBJECT: Electrical corporations: wildfire mitigation plans: deenergization events

SOURCE: Author

DIGEST: This bill requires electrical corporations to identify circuits that have frequently been deenergized to mitigate the risk of wildfire and the measures taken to reduce the need for future deenergization of those circuits, as specified.

Assembly Amendments narrow this bill by deleting provisions of the bill related to microgrids, collaboration with local governments, utility sharing of data, and address conflicts with AB 148 (Committee on Budget, Chapter 115, Statutes of 2021), along with other technical and clarifying amendments.

ANALYSIS:

Existing law:

1) Establishes the California Public Utilities Commission (CPUC) with regulatory authority over public utilities, including electrical corporations. (California Constitution, Article 12)

2) Requires an electrical corporation to construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment. Requires each electrical corporation to annually prepare a wildfire mitigation plan and to submit its plan to the CPUC for review and approval, as specified. Following approval, the CPUC is required to oversee an electrical corporation's compliance with the plans. (Public Utilities Code §8386)

This bill requires that an electrical corporation's wildfire mitigation plan identify circuits that have frequently been deenergized to mitigate the risk of wildfire and the measures taken, or planned to be taken, by the electrical corporation to reduce the need for, and impact of, future deenergization of those circuits, including the estimated annual decline in circuit deenergization and deenergization impact on customers, and replacing, hardening, or undergrounding any portion of the circuit or of upstream transmission or distribution lines.

Background

Deenergizing electric lines. Electrical equipment, including downed power lines, arcing, and conductor contact with trees and grass, can act as an ignition source. In recent years, California has experienced a number of catastrophic wildfires, including several that were ignited by electrical utility infrastructure. Generally, electric utilities attempt to maintain power and ensure continued reliability of the flow of electricity. However, as recent catastrophic fires have demonstrated, the risk of fire caused by electric utility infrastructure can pose great damage and loss

of life, perhaps greater than the risks of turning off the power to certain circuits. As a safety tool, electric utilities have the ability and authority to deenergize electric lines in order to prevent harm or threats of harm. However, deenergizing electric lines can result in the loss of electricity to households, businesses, traffic signals, communication systems, critical facilities, water treatment facilities, emergency services and others, the loss of which can also cause harm. Therefore, efforts to deenergize electric lines must consider the potential harm of the energized lines causing a wildfire against the safety hazards associated with eliminating electricity to the areas served by the circuits.

Recent history with power shutoffs. In recent years, electric utilities have increasingly utilized proactive power shutoffs as a tool to prevent sparking, coined as Public Safety Power Shutoffs (PSPS). The CPUC has adopted protocols for deenergizing electric lines with a focus on who should receive notice and when; who should be responsible for notification; how different customer groups should be identified; the information that should be included in notifications in advance of and directly preceding a deenergizing event; the methods of communication; and how the electric investor-owned utilities (IOUs) should communicate and coordinate with public safety partners before and during an event. The CPUC is working with the Office of Emergency Services, Cal FIRE, and first-responders to address potential impacts of utility deenergization practices on emergency response activities, including evacuations. The CPUC is also monitoring the development and continuously assessing implementation of deenergization programs by utilities, including performing a review of deenergization events. The CPUC and Legislature have continued oversight of the utilities' practices with the goal of minimizing the use of power shutoffs and accelerating wildfire mitigation. However, today, proactive power shutoffs continue to be an important and relied upon tool to reduce wildfire risks.

Wildfire Mitigation Plan (WMP). Originally required by SB 1028 (Hill, Chapter 598, Statutes of 2016), and further expanded by SB 901 (Dodd, Chapter 626, Statutes of 2018) and AB 1054 (Holden, Chapter 79, Statutes of 2019), electric IOUs are required to file WMPs with specified guidance, direction, and requirements by the Wildfire Safety Division (WSD), originally housed at the CPUC. [As of July 1, 2021, the WSD has moved to the Office of Energy Infrastructure Safety at the Natural Resources Agency]. The WSD also reviews and determines whether to approve these plans and ensures compliance with guidance and statute. The electric IOUs' WMPs detail, describe and summarize electric IOU responsibilities, actions, and resources to mitigate wildfires. These actions include plans to harden their system to prevent wildfire ignitions caused by utility infrastructure, such as widespread electric line replacement with covered

conductors, pole replacement, and vegetation management, and other measures designed to lower wildfire ignition. The WMPs also require electric utilities to incorporate their protocols and procedures for proactive power shutoffs.

Comments

Need to better identify measures to reduce use of PSPS on circuits that are repeatedly deenergized. The author is accurate to note that proactive power shutoffs can have a serious impact on customers and critical services. While electric utilities continue to implement upgrades and improvements on their systems to reduce the risk of wildfires, the use of power shutoffs should wane over the long-term. However, in the near-term proactive power shutoffs are likely to remain an important tool to mitigate the risk of utility infrastructure igniting a catastrophic wildfire. The use of proactive power shutoffs seems to be particularly long-term and more frequent for areas with a high wildfire risk. In that regard, continued oversight and reporting by the electric IOUs to identify efforts to reduce their use is necessary.

Related/Prior Legislation

SB 560 (McGuire, Chapter 410, Statutes of 2019) expanded the protocols required as a result of the deenergizing of electrical lines initiated by an electrical corporation (electric IOU), a local POU, or an electrical cooperative (co-op) to mitigate the impact of the event on specified customers and critical services, among other provisions.

SB 901 (Dodd, Chapter 626, Statutes of 2018) addressed numerous issues concerning wildfire prevention, response and recovery, including funding for mutual aid, fuel reduction and forestry policies, WMPs by electric utilities, and cost recovery by electric corporations of wildfire-related damages.

SB 1028 (Hill, Chapter 598, Statutes of 2016) required electric CPUC-regulated utilities to file annual WMPs and requires the CPUC to review and comment on those plans.

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

According to the Assembly Appropriations Committee, costs to the Office of Energy Infrastructure and Safety should be minor and absorbable, as the office already must review and approve each IOU’s annual WMP.

SUPPORT: (Verified 9/7/21)

350 Silicon Valley
Association of California Water Agencies
California Association of Public Authorities for IHSS
Cities of Moorpark, Santa Clarita, Simi Valley, and Thousand Oaks
Disability Rights California
El Dorado Irrigation District
Elders Climate Action, NorCal Chapter
Elders Climate Action, SoCal Chapter
Independent Living Resource Center
Microgrid Resources Coalition
Rural County Representatives of California
Schneider Electric North America
UDW/AFSCME, Local 3930
Ventura County Board of Supervisors

OPPOSITION: (Verified 9/7/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "Over the past two years, public safety power shutoff [PSPS] events have left more than three million Californians without power for days at a time. Events resulting in a power outage are meant as a last resort to ensure the public is safe-guarded from wildfires sparked by electric utility infrastructure. However, their frequent use by the state's biggest investor owned utilities is now a problem and a burden to electric customers and local governments. These outages are exacerbated as many Californians continue following COVID 19 preventative measures, resulting in more time working from home, going to school from home and being dependent on access to the internet… Additionally, city and county critical services are strained as water services are disrupted, traffic lights stop working, and cities responding to the power outage initiate protocols as if a city or county were experiencing a natural disaster… Add on top of this, that it appears to be same segments of electric infrastructure being shut-off over and over and you quickly realize PSPS events can be significantly reduced if IOUs just target and repair their most PSPS prone zones."

ASSEMBLY FLOOR: 77-0, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, 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, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Cooley, Seyarto

Prepared by: Nidia Bautista / E., U., & C. / (916) 651-4107
9/9/21 20:52:15

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

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 570
Author: Wieckowski (D)
Amended: 9/1/21
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 15-0, 4/27/21
AYES: Gonzalez, Bates, Allen, Archuleta, Becker, Cortese, Dahle, McGuire, Melendez, Min, Newman, Rubio, Skinner, Wieckowski, Wilk
NO VOTE RECORDED: Dodd, Umberg

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 40-0, 5/24/21 (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, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

ASSEMBLY FLOOR: 78-0, 9/9/21 - See last page for vote

SUBJECT: Vehicles: equipment

SOURCE: Author

DIGEST: This bill species that certain vehicle equipment requirements that apply to traditional vehicles do not apply to autonomous vehicles.

Assembly Amendments make technical clarifications.

ANALYSIS:

Existing federal law:

1) Imposes certain safety requirements on motor vehicles, including a requirement that they have headlamps and wipers.

2) Preempts a State or a political subdivision from prescribing a motor vehicle safety standard that is not identical to existing federal law.

Existing state law:

1) Establishes conditions for the operation of autonomous vehicles (AVs) upon public roads and requires the Department of Motor Vehicles (DMV) to adopt regulations for the operation of AVs as soon as practicable, but no later than January 1, 2015, as specified.

2) Defines "autonomous vehicle" to mean any vehicle equipped with autonomous technology that has been integrated into that vehicle.

3) Prohibits an AV from operating on public roads without a permit approved by the DMV. Specifies that a permit application must certify, among other things, that the AV's autonomous technology meets Federal Motor Vehicle Safety Standards for the vehicle's model year and all other applicable safety standards and performance requirements set forth in state and federal law and the regulations.

4) Requires a commercial motor vehicle operated by a motor carrier to be equipped with a speedometer.

5) Requires every new motor vehicle, as specified, to be equipped with a beam indicator, which lighted whenever the uppermost distribution of light from the headlamps is in use.

6) Requires every passenger vehicle to be equipped with a windshield, as specified.

7) Requires every motor vehicle, as specified, to be equipped with windshield wipers.

8) Requires every motor vehicle, as specified, to be equipped with not less than two mirror, including one affixed to the left-hand side.

9) Requires every passenger vehicle used for the transportation of persons for hire shall be equipped with a defrosting device.

10) Requires a motor vehicle to be equipped with stoplamps mounted on the rear of the vehicle that shall be activated upon application of the foot brake.

11) Requires every manufacturer or importer of new passenger vehicles for sale or lease in the state to affix a specified notice to the window or the windshield.

12) Requires all vehicles subject to registration to be equipped with a muffler, as specified, to prevent excessive or unusual noise.

This bill:

1) Specifies that vehicle equipment requirements, 4)-9) above, do not apply to a motor vehicle that is not capable of operation by a human driver seated in the vehicle.

2) Specifies that for vehicles not capable of operation by a human driver seated in the vehicle, stoplamps shall be activated upon the remote or autonomous activation of the braking system.

3) Specifies that the notice, 11) above, may be affixed to the door jamb for a motor vehicle that is not capable of operation by a human driver seated in the vehicle and not equipped with a windshield or windows.

4) Specifies that this requirement, 12) above, applies only to vehicle equipped with an internal combustion engine.

Comments

1) *Purpose.* According to the author, "California is the leader in advanced transportation and technology. However, our statutes and associated codes do not always keep up with advancements in technology. Specifically, California's vehicle code equipment list has not been updated in decades and does not reflect advancements in electric and autonomous technologies. For example, all vehicles are currently required to be equipped with a muffler, even electric vehicles that do not have tailpipes and associated engine noise and emissions. SB 570 is a technical clean-up of California's vehicle code equipment list to update the equipment list to reflect advancements in all-electric (EV) and autonomous vehicles (AV) that are exclusively operated by AV technology."

2) *Background on AV permitting and levels of automation.* SAE International (SAE) defines levels of automation, ranging from SAE Level 0 (no automation) to SAE Level 5 (full automation under all conditions). Level 2 vehicles may include partially automated features such as lane assist and adaptive cruise

control but still require the full engagement of the driver. For Level 3 vehicles, the automated driving system performs all aspects of the dynamic driving task, but the driver must be ready to take control. Level 4 vehicles are fully automated in certain conditions (e.g. on freeways) while Level 5 vehicles would provide full-time automated performance of all aspects of the driving task in all conditions. At this highest level of automation the AV could be designed without controls for humans (e.g. steering wheel, brake pedal, mirrors) and therefore be incapable of operation by a human driver.

In 2014, the DMV adopted regulations for the testing of AVs on public roads requiring a test driver and established an application and approval process for a testing permit. In early 2018, the DMV adopted regulations for testing AVs without a driver at the wheel and for deployment of AVs in California. DMV began accepting applications for these permits on April 1, 2018. So far, only one company has been authorized to deploy AVs, Nuro, but many others are in the testing phase: the DMV has issued 56 autonomous vehicle testing permits (with a driver) and six autonomous vehicle driverless testing permits.

This bill exempts autonomous vehicles not capable of operation by a human driver seated in the vehicle, i.e. fully automated AVs or remotely operated vehicles, from certain vehicle equipment requirements, such as side mirrors or windshield wipers.

3) *One for the EVs.* Mufflers reduce the noise emitted by the exhaust of an internal combustion engine. Fully electric cars do not have exhaust pipes and are not outfitted with mufflers. In addition to dealing with AV vehicle equipment requirements, SB 570 would specify that the muffler requirement only applies to vehicles with an internal combustion engine.

4) *Federal role and actions.* The National Highway Traffic Safety Administration (NHTSA) issues federal Motor Vehicle Safety Standards and regulations to which manufacturers of motor vehicles and motor vehicle equipment must conform. So far, it has only begun the process of updating its regulations for AVs, though; it has issued a temporary exemption for Nuro's purpose-built AV. The National Traffic and Motor Vehicle Safety Act, which created NHTSA, explicitly prohibits states from imposing vehicle safety requirements that are not identical to existing federal law. Specifically, the act states: "When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision may prescribe or continue in effect a standard applicable to the same aspect or performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. A state

may enforce a standard that is identical to a standard in this chapter." Therefore, exempting AVs from state vehicle equipment requirements with an equivalent federal counterpart may be federally preempted.

5) *No tickets yet.* California's Vehicle Code does require some equipment that does not make sense on EVs (mufflers) and perhaps on some AVs that cannot be operated by humans. However, despite almost half a million ZEVs on California roads and millions of miles driven by AVs in the state, there are no reports of these vehicles being pulled over for noncompliance with state vehicle equipment requirements.

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

According to the Assembly Appropriations Committee, negligible state costs, if any.

SUPPORT: (Verified 9/8/21)

Coalition for Safe Autonomous Vehicles and Electrification
Nuro, Inc.
Ralphs Grocery Company
Zoox, Inc.

OPPOSITION: (Verified 9/8/21)

None received

ASSEMBLY FLOOR: 78-0, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, 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: Cooley, Frazier

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
9/9/21 20:55:43

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

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

UNFINISHED BUSINESS

Bill No: SB 628
Author: Allen (D), et al.
Amended: 9/3/21
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/19/21
AYES: Cortese, Ochoa Bogh, Durazo, Laird, Newman

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

SENATE FLOOR: 35-3, 5/26/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk
NOES: Bates, Jones, Nielsen
NO VOTE RECORDED: Borgeas, Melendez

ASSEMBLY FLOOR: 69-3, 9/8/21 - See last page for vote

SUBJECT: California Creative Workforce Act of 2021

SOURCE: California Arts Advocates

DIGEST: This bill enacts the California Creative Workforce Act of 2021, the purpose of which would be to establish creative arts workforce development as a state priority and to promote employment and "earn and learn" job training opportunities for creative workers. Among other things, this bill requires the California Arts Council (CAC), in consultation with the California Workforce Development Board (CWDB), to design the program guidelines and criteria and vests the Council with the responsibility of overseeing and administering the grant program.

Assembly Amendments clarify that the CAC is responsible for administering the grant program and specify that these provisions become operative upon the appropriation by the Legislature of sufficient funds for its purposes.

ANALYSIS:

Existing law:

1) Establishes that the state's workforce system operate according to, among others, the following principles (UI Code §14000 et seq):

    a) Programs shall be responsive to the needs of employers, workers, and students, preparing students and workers with the skills necessary to compete in the economy, producing greater numbers of individuals who obtain industry-recognized certificates and career-oriented degrees; adapting to changing local and regional labor market conditions, preparing workers for good-paying jobs; and *aligning efforts around industry sectors that drive regional employment.*

    b) State and local workforce development boards are encouraged to collaborate with other public and private institutions, including businesses, unions, nonprofit organizations, and education programs, among others, to better align resources across all service delivery systems.

    c) Workforce investment programs are to operate in a data driven and evidence based manner and are to be outcome oriented and accountable, measuring results for program participants, including, but not limited to, outcomes related to program completion, employment, and earnings.

2) Establishes CWDB as the body responsible for assisting the Governor in the development, oversight, and continuous improvement of the workforce system. (UI Code §14010 et seq).

3) 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.
    (UI Code §14005(q))

4) 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. (Unemployment Insurance Code §14005(j)).

5) Establishes the Breaking Barriers to Employment Grant Initiative 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. Services are delivered locally through partnerships between community-based organizations and local workforce development boards. (Unemployment Insurance Code §14030 et seq.)

6) Establishes CAC with, among others, the following duties:

   a) Encourage artistic awareness, participation and expression.

   b) Promote the employment of artists and those skilled in crafts in both the public and private sector.

   c) Provide for the exhibition of art works in public buildings in California.

   d) Enlist the aid of all state agencies in the task of ensuring the fullest expression of our artistic potential.

   e) Request and obtain from any department, division, board, bureau, commission, or other agency of the state such assistance and data as will enable it properly to carry on its power and duties.

   f) Hold hearings, execute agreements, and perform any acts necessary and proper to carry out the purposes of this chapter.

   g) Accept only unrestricted gifts, donations, bequests, or grants of funds from private sources and public agencies, for any of the purposes of this chapter. However, the council shall give careful consideration to any donor requests concerning specific dispositions.

   h) Establish grant application criteria and procedure.

   i) Award prizes or direct grants to individuals or organizations in accordance with such regulations as the council may prescribe.(Government Code §8751 & §8753)

7) Prohibits the CAC from making any grants or fund any program which has not been established pursuant to the powers granted to it by the Government Code. (Government Code §8753.5).

This bill:

1) Establishes the California Creative Workforce Act of 2021 and sets forth the following objectives for the Act:

   a) To establish creative arts workforce development as a state priority.

   b) To recognize creative workers across California as essential workers and contributors for overcoming California's greatest challenges through the rebuilding of California's cultural landscape into a more equitable and just framework.

   c) To develop and support a workforce career development pipeline that serves creative workers at all stages of their careers.

   d) To create equitable opportunities for career exploration and participation in creative work for individuals and communities who may have faced barriers as a result of low levels of public and private investment, limited exposure to arts programming, or other social or economic barriers.

   e) To promote employment and "earn and learn" job training opportunities for creative workers throughout the state.

2) Defines "Creative work" as work directly relevant to the creation, development, production, and marketing of visual, performance, and literary art, including, but not limited to, painting, mural-making, photography, music, performance art, acting, filmmaking, dancing, fashion design, graphic design, poetry, and all other forms of creative writing.

3) Defines "creative workers" as visual, performance, and literary artists, including, but not limited to, painters, muralists, photographers, musicians, performing artists, actors, filmmakers, dancers, fashion designers, graphic designers, poets, and writers.

4) Directs the CAC, in consultation with the CWDB, to design a grant program pursuant to the objectives of the California Creative Workforce Act.

5) Directs the CWDB and the CAC to consult with local governments, community nonprofit organizations, educational institutions with arts

programming, and workers, unions, and employers in relevant industry sectors on the design of the grant program.

6) Exempts the criteria, guidelines, and policies from the rulemaking provisions of the Administrative Procedure Act, and requires that the CAC make the criteria, guidelines, and policies available to the public.

7) Directs the CAC to adopt criteria, guidelines and policies for the grant program and, in consultation with the CWDB, oversee and administer the program.

8) Establishes that the program be operated and implemented locally or regionally by program grantees, including but not limited to local government entities, cultural arts agencies, community nonprofit organizations, as well as other organizations operating a program consistent with the objectives of the grant program.

9) Requires that the CAC specify and set aside a portion of program funds to be awarded to grantees to provide, either directly or through contract, earn and learn job training employment opportunities for students who have enrolled in or completed a program in the arts, low-income or unemployed creative workers, and other individuals with a demonstrated interest in or commitment to creative work in their communities.

10) Establishes the following parameters for the first set aside portion of funds:

    a) Grantees may serve as, or contract with, labor market intermediaries, who will connect prospective program participants to employers with earn and learn job training employment opportunities that involve creative work.

    b) Earn and learn job training employment opportunities for a creative worker shall be for a period of no less than 12 months and no more than 24 months.

    c) Employment funded by the project shall pay a living wage in the regional labor market where the work is performed.

    d) Creative workers shall be employed in jobs that provide opportunities to progressively learn, over the course of their enrollment in the program, occupational skills relevant to jobs characteristic of the arts and entertainment industry.

    e) Employment shall support creative workers in diverse activities and projects, including, but not limited to, public artworks, musical and

theatrical performances, and community documentation that lift up the voices of systemically marginalized populations and that reframe and reimagine the possibilities of defining a new California culture.

f) The program shall be structured so as to promote transition to actual unsubsidized employment at the time program participants complete their program enrollment, with post enrollment job placement in a living wage job serving as an important underlying objective of the program.

11) Requires that the CAC specify and set aside a second portion of program funds to be awarded to grantees to create equitable opportunities for career exploration and participation in creative work for individuals and communities who have faced barriers to participation and employment in creative work as a result of low levels of public and private investment in the arts, limited exposure to arts programming, or other social or economic barriers to participation and employment in creative work.

12) Requires that the second "set aside" portion of grant funds shall provide a portion of the grant funds to organizations serving veterans and individuals with employment barriers as defined by Unemployment Insurance Code Section 14005 (j).

13) Establishes that the CAC, in consultation with the CWDB, may specify and set aside a third portion of program funds to be awarded to grantees to provide other workforce services permitted under the California Workforce Innovation and Opportunity Act to unemployed, underemployed, and displaced creative workers.

14) Directs the CAC, in consultation with the CWDB, to develop and implement a plan for grant program evaluation and to specify the data needed, as prescribed, to be collected to evaluate program efficacy.

15) Establishes that the CAC shall require grantees, as a condition of receiving funding, to collect and remit all requisite data necessary for program evaluation.

16) Clarifies in the Government Code that the CAC may carry out duties assigned to it by the California Creative Workforce Act.

17) Specifies that these provisions shall become operative upon the appropriation by the Legislature of sufficient funds for its purposes.

Background

Under the California Workforce Innovation and Opportunity Act, the CWDB is statutorily required to identify industry sectors and industry clusters that have a competitive economic advantage and demonstrated economic importance to the state and its regional economies. The CWDB is also required, under state statue, to develop, support, and sustain regional alliances of employers and workforce and education professionals who are working to improve the educational pipeline, establish well-articulated career pathways, provide industry-recognized credentials, certificates, and recognized postsecondary credentials, and address the career advancement needs of current and future workers in competitive and emergent industry sectors and clusters.

(NOTE: Please see Senate Labor, Public Employment and Retirement Committee analysis for more background information on recent investments.)

Comments

Need for the bill? According to the author, "California's economic and civic recovery will depend on rapidly returning as many people as possible to work. California's $650 billion creative economy is the largest in the world but COVID-19 has brought much of it to a standstill. According to a report by the Public Policy Institute of California, of 11,000 creative workers surveyed, over 96% had lost revenue or employment because of the pandemic. Creative industries are integral to the recovery, rebuilding, and healing of California. Creative workers and projects heal communities, drive social-emotional learning, improve cultural competency and cohesion, address trauma, and inspire new thinking in communities with unmet needs. If California is to retain its premier position in arts and culture, and realize the social, cultural, and economic benefits of the creative industries there must be greater opportunities for creative employment and training across the state. The California Creative Workforce Development Act of 2021 would establish programs to employ creative workers in their community, and to provide training and support to new creative workers."

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

According to the Assembly Appropriations Committee, the size of the grant program is unspecified. Assuming a grant program of about $20 million annually, administrative costs are estimated at $1,000,000 annually for CAC and about $200,000 annually for CWDB (General Fund).

SUPPORT: (Verified 9/7/21)

California Arts Advocates (source)
Arts for LA
Arts Orange County
Association of California Symphony Orchestras
California Association of Museums
Neighborhood Music School Association
Ophelia's Jump Productions
Pacific Ballet Dance Theatre
Pasadena Playhouse
San José Arts Advocates
The Latino Arts Network of California
Theatrical Producers' League of Los Angeles

OPPOSITION: (Verified 9/7/21)

None received

ARGUMENTS IN SUPPORT: According to California Arts Advocates, "As the statewide advocacy organization for the arts, culture and creative industries in California, we are deeply concerned that unless immediate measures are taken to support what was one of California's leading industries before the pandemic, California could face a cultural depression for years to come. In fact, a recent McKinsey and Company report states that in a muted recovery, they estimate that it will take until 2025 for the arts, entertainment, and recreation sectors to recover to pre-COVID 19 sector GDP…SB 628 represents an innovate solution to help build back the arts and creative industries workforce by offering jobs creation opportunities for the recently unemployed and workforce development for a new pipeline of creative workers."

ASSEMBLY FLOOR: 69-3, 9/8/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Fong, 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, 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: Bigelow, Davies, Smith
NO VOTE RECORDED: Chen, Flora, Gallagher, Kiley, Mathis, Nguyen, Seyarto, Voepel

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
9/8/21 21:52:19

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

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UNFINISHED BUSINESS

Bill No: SB 686
Author: Glazer (D), et al.
Amended: 8/24/21
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 4/12/21
AYES: Glazer, Hertzberg, Leyva, Newman
NOES: Nielsen

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

SENATE FLOOR: 32-6, 6/2/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Wilk
NO VOTE RECORDED: Melendez, Nielsen

ASSEMBLY FLOOR: 59-17, 9/9/21 - See last page for vote

SUBJECT: Campaign disclosure: limited liability companies

SOURCE: Fair Political Practices Commission

DIGEST: This bill requires a limited liability company (LLC) that is engaged in campaign activity to provide additional information regarding the members and capital contributors to the LLC, as specified.

Assembly Amendments change the monetary threshold at which, and the time period during which, a person who provided a capital contribution to an LLC is required to be disclosed in the LLC's statement of members, as specified, and remove the codification of Fair Political Practices Commission (FPPC) regulations

related to LLCs. The amendments also require the Secretary of State (SOS) to post online all statements of members received and clarified the process for the submission of a qualifying LLC's statement of members, as specified. Finally, the amendments add coauthors.

ANALYSIS:

Existing law:

1) Creates the FPPC, and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act of 1974 (PRA).

2) Provides for the comprehensive regulation of campaign financing, including, but not limited to, requiring the reporting of campaign contributions and expenditures, as specified.

3) Defines a "person" to mean an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, LLC, association, committee, and any other organization or group of persons acting in concert.

4) Defines "committee" to mean any person or combination of persons who directly or indirectly does any of the following:

   a) Receives contributions totaling $2,000 or more in a calendar year (also known as a recipient committee).

   b) Makes independent expenditures totaling $1,000 or more in a calendar year to or at the behest of candidates or committees (also known as an "Independent Expenditure").

   c) Makes contributions totaling $10,000 or more in a calendar year to or at the behest of candidates or committees (also known as a "Major Donor" committee).

5) Requires a qualified committee to file periodic statements and reports, as specified.

6) Requires a report or statement filed by a committee receiving contributions totaling at least $2,000 in a calendar year be signed and verified by the treasurer. Requires that a report or statement filed by any other person be signed and verified by the filer.

7) Provides that if the filer is an entity other than an individual, the report or statement shall be signed and verified by a responsible officer of the entity, by

an attorney, or a certified public accountant acting as an agent for the entity. Provides that every person who signs and verifies any report or statement required to be filed which contains material matter which the individual knows to be false is guilty of perjury.

8) Provides that any person who violates the PRA, purposely or negligently causes any other person to violate any provisions of the PRA, or who aids and abets any other person in the violation of the PRA shall be liable under the provisions of the PRA, as specified. Provides, that this only applies to persons who have filing or reporting obligations under the PRA, or who are compensated for services involving the planning, organizing, or directing any activity regulated or required by the PRA, as specified.

This bill:

1) Requires that an LLC that qualifies as a committee or qualifies as a sponsor of a committee to file a statement of members with the SOS and requires all statements received by the SOS be posted online, as specified.

2) Requires the statement of members to include a list of all persons who either:

   a) Have a membership interest in the LLC equal to or greater than 10 percent of the total outstanding membership interests.

   b) Made a cumulative capital contribution of $10,000 or more to the LLC after it qualified as a committee or sponsor of a committee, or within the preceding 12 months before it qualified.

3) Requires the statement of members to include the name of the LLC and the contact information for its responsible officer or principal officer. Requires the disclosure of the name, the dollar amount of the cumulative capital contributions, the date of each capital contribution, and the percentage ownership interest in the LLC of each member identified in the statement of members, as specified.

4) Provides that the statement of members is due within 10 days of the LLC qualifying as a committee or sponsor of a committee. Provides that a statement of members is due within 24 hours of the LLC qualifying as a committee or sponsor of a committee if the LLC qualifies within 30 days of an election and made a contribution to, or an independent expenditure supporting or opposing, a candidate or ballot measure on the ballot in that election, or made a contribution to a committee that made a contribution to, or an independent expenditure

supporting or opposing, a candidate or ballot measure on the ballot in that election.

5) Requires an LLC to file a statement of members if it receives a capital contribution of $1,000 or more after qualifying as a committee or sponsor of a committee, as specified.

6) Provides that a capital contribution or other payment made to an LLC that qualified as a committee or sponsor of a committee that is earmarked, in whole or in part, for political purposes shall be deemed a contribution to the committee.

7) Requires that if a member listed on a statement of members is an LLC, the statement shall list all members of that LLC who would be listed on a statement of members if the member LLC qualified as a committee or sponsor of a committee, as specified.

8) Requires that contributions from a member of an LLC identified in a statement of members be aggregated with contributions from the LLC, as specified.

9) Defines "capital contribution," "limited liability company," and "member," as specified.

Background

FPPC Regulations and LLCs. In June 2020, the FPPC adopted two regulations requiring LLCs to disclose specified information about who is making political decisions on behalf of the LLC.

The first regulation defined "responsible officer" for LLCs that qualify as an Independent Expenditure or Major Donor committee as "the individual primarily responsible for approving the political activity of the LLC." This change provided the public with a more accurate picture of who is directing an LLC's expenditures and contributions. Prior to the adoption of this regulation, a registered agent or professional manager with no actual authority or control of the LLC would have typically been listed.

The second regulation required additional information from a committee that receives a contribution from an LLC. The committee receiving the contribution would be required to provide the name of the individual responsible for the LLC's political activity in addition to reporting the name of the LLC. It should be noted that the individual varies depending on the whether the LLC is a committee under the PRA and the type of committee.

As part of its consideration of those regulations, FPPC staff prepared a memo that included an overview of some of the challenges to obtaining meaningful disclosure of political activity by LLCs (footnotes are excluded from this excerpt of the memo):

> The [FPPC] has expressed concern with the lack of meaningful disclosure of political activity by LLCs. The Enforcement Division has identified a pattern in which LLCs, often formed shortly before an election, make large contributions and expenditures in California elections without the sources of the money ever being disclosed to the public in any meaningful way. This lack of information about the individuals responsible for the political activity conducted through LLCs makes investigation of suspicious activity extremely challenging and burdensome and leaves no way for the public to determine the source of LLC political activity.

Additionally, while California and most other states require the founders of an LLC to disclose the LLC's (company) name, address, and registered agent, it is possible to form an LLC without ever having to name a single human being associated with the company. Even when an individual is listed as an LLC's registered agent and/or manager, that person may not be the true funding source of an LLC's capital contributions. Investors may use multiple layers of LLCs to completely hide or obscure their identities from public disclosure. The same qualities that may make LLCs popular among legitimate businesses make LLCs an ideal business structure for those seeking to conceal activities.

Comments

1) According to the author, SB 686 provides greater transparency and disclosure for limited liability companies that make political contributions. According to data from the SOS' Political Reform Division, there were 2,635 Major Donor and Independent Expenditure committees in 2019. Of those, 253 were LLCs. Additionally, a 2019 FPPC Enforcement Division examination of LLCs found that while it was relatively easy to find information about an LLC's type of business, its address, and its agent for service of process, it was extremely difficult and many times impossible to identify an LLC's owners or the true source of funds for an LLC's political expenditures.

   Californians deserve to know who is trying to influence their political process. This bill is a simple, yet meaningful, approach to provide clarity regarding political contributions that can oftentimes be murky.

2) In a letter supporting SB 686, the League of Women Voters of California states, in part, the following:

> SB 686 is consistent with the League of Women Voters of California's mission to inform voters and protect democracy by adding transparency to the campaign financing process. It will help foster effective monitoring and enforcement of campaign finance laws and go a long way to ensure that special interests cannot use LLCs to hide the sources of spending designed to influence elections. In the absence of effective limits on campaign spending, it is critical that voters be informed of the interests which fuel the messages they receive.

Related/Prior Legislation

AB 236 (Berman, 2021) requires an LLC that engages in campaign activity to submit a statement of members to the SOS, as specified.

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

According to the Assembly Appropriations Committee:

- First year SOS General Fund costs of approximately $560,000, and $120,000 annually thereafter, to implement the provisions of this bill.
- Ongoing annual FPPC General Fund costs of approximately $120,000.

SUPPORT: (Verified 9/9/21)

Fair Political Practices Commission (source)
California Clean Money Campaign
League of Women Voters of California

OPPOSITION: (Verified 9/2/21)

None received

ASSEMBLY FLOOR: 59-17, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooper, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Muratsuchi,

Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

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

NO VOTE RECORDED: Cooley, Frazier, Kiley, Valladares

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/9/21 20:49:40

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

SENATE RULES COMMITTEE SB 694
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 694
Author: Bradford (D)
Amended: 9/3/21
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 14-0, 4/19/21
AYES: Hueso, Dahle, Becker, Borgeas, Bradford, Dodd, Eggman, Gonzalez, Grove, Hertzberg, McGuire, Min, Rubio, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

ASSEMBLY FLOOR: 70-0, 9/7/21 - See last page for vote

SUBJECT: Fire prevention: electrical corporations: wildfire mitigation: workforce diversity

SOURCE: Author

DIGEST: This bill requires an electrical corporation to notify the California Public Utilities Commission (CPUC) via advice letter with a detailed summary of specified workforce development efforts completed in compliance with the Office of Federal Contract Compliance Program, including data regarding employment of former members of the California Conservation Corps crews, members of community conservation corps, and formerly incarcerated conservation crew members.

Assembly Amendments recast the language of the bill to require electrical corporations to provide the data required in the form of an advice letter to the CPUC, instead of as part of the electrical corporation's wildfire mitigation plan. Additional amendments address chaptering issues with Assembly Bill 9 (Wood, 2021).

ANALYSIS:

Existing law:

1) Establishes the California Public Utilities Commission (CPUC), which has regulatory authority over public utilities, including electrical corporations. (California Constitution Article XII, §§3 and 4)

2) Establishes the Wildfire Safety Division (WSD) within the CPUC and transfers, by July 1, 2021, all functions of the WSD to the Office of Energy Infrastructure Safety (OEIS). (Public Utilities Code § 326 and Government Code § 15470, *et seq.)*

3) Requires each electrical corporation to annually prepare and submit a wildfire mitigation plan (WMP) to the CPUC for review and approval, as specified. Requires an electrical corporation's WMP to include specified components. (Public Utilities Code §8386)

4) Prevents an electrical corporation from diverting revenues authorized to implement the WMP to any activities or investments outside of the WMP and requires an electrical corporation to notify the CPUC by advice letter of the date when it projects that it will have spent, or incurred obligations to spend, its entire annual revenue requirement for vegetation management in its plan, as specified. (Public Utilities Code §8386.3)

5) Establishes the California Conservation Corps (CCC) to train young men and women to engage in projects that include, but are not limited to, preserving, maintaining, and enhancing environmentally important lands and waters, accomplish useful and needed public works projects in both urban and rural areas, and assist in fire prevention and suppression. (Public Resources Code §14000 *et seq.)*

6) Establishes the Community Conservation Corps, commonly known as the local conservation corps, to mean nonprofit public benefit corporation or an agency operated by a city, county, or city and county, and is certified by the CCC as meeting specified criteria. (Public Resources Code §14507.5)

This bill requires electrical corporations to notify the CPUC, by advice letter, with a detailed summary of specified workforce development efforts completed in compliance with the Office of Federal Contract Compliance Programs, including data on the extent to which the electrical corporation and its contractors employ former members of California Conservation Corps crews, members of community conservation corps, and formerly incarcerated conservation crew members.

Background

Wildfire Mitigation Plan (WMP). Pursuant to statute, as originally established by SB 1028 (Hill, Chapter 598, Statutes of 2016), and further expanded by SB 901 (Dodd, Chapter 626, Statutes of 2018), and AB 1054 (Holden, Chapter 79, Statutes of 2019), electric investor-owned utilities (IOUs) are required to file a WMP under specified guidance provided by the Wildfire Safety Division (WSD), which as of July 1st has transitioned from the CPUC to the Office of Energy Infrastructure Safety (OEIS) in the Natural Resources Agency. The WSD reviews and determines whether to approve the electric utilities' WMPs and ensures compliance with guidance and statute. The electric IOUs' WMPs detail, describe and summarize electric IOU responsibilities, actions, and resources to mitigate wildfires. These actions include plans to harden their electrical system in order to prevent wildfire ignitions caused by utility infrastructure, such as widespread electric line replacement with covered conductors, pole replacements, and other measures and actions designed to reduce wildfire ignition. The WMPs also include information regarding the electric IOUs' efforts to conduct extensive vegetation management to reduce the risk of tree branches, grasses, and other vegetation from coming into contact with utility infrastructure. Electric utility employees conduct some of the wildfire mitigation work, however, electric utilities also contract with third parties for much of the work. In response to recent catastrophic and deadly fires ignited by utility infrastructure, the state has imposed additional requirements on electric utilities to reduce their wildfire risks. The aggressive efforts to mitigate more of the electric IOUs' infrastructure has at times also challenged the availability of workforce supply to conduct these activities.

WMP guidelines on workforce development. The Wildfire Safety Advisory Board (WSAB) provides recommendations to the WSD on improving guidelines for the WMP. In their 2020 and 2021 reports, the WSAB observed inconsistent levels of expertise relied upon to conduct electrical inspections and qualified personnel shortages across the utilities, and highlighted the need for improved workforce training and development. The WSAB recommended that the 2021 WMP guidelines require utilities to develop more robust outreach and onboarding programs for new electric workers and increase the pool of qualified workers.

CCC and local conservation corps. The CCC was established in 1976 by then-Governor Jerry Brown who modeled the CCC after the original Civilian Conservation Corps of the 1930s, established by then-President of the United States Franklin Roosevelt, which helped put mostly men to work during the Great Depression. The CCC is a department within the California Natural Resources Agency and is the oldest conservation corps in the nation. The program provides young men and women, ages 18-25 years old, a year of paid service to the State of California. CCC members come from across the state, work on environmental projects, and respond to natural and manmade disasters. The CCC enrolls, roughly, 3,000 members each year, gaining skills and experience with the intent of leading to meaningful careers. The CCC also annually certifies local conservation corps, pursuant to Public Resources Code Section 14507.5, by ensuring the local conservation corps meets statutory criteria defining a community conservation corps and, when applicable, specified grant funding criteria. The local conservation corps can be nonprofit public benefit corporations or an agency operated by a city, county, or city and county. There are 14 local conservation corps currently certified by the CCC working in regions across the state, including throughout Southern California, the Bay Area, and many areas of the Central Valley.

Conservation Camp Program. Existing law establishes the California Conservation Camp Program to provide for training and use of wards and inmates assigned to conservation camps to perform public conservation projects including forest fire prevention and control, forest and watershed management, recreation, fish and game management, soil conservation, and forest and watershed revegetation. The California Department of Corrections and Rehabilitation (CDCR), in cooperation with Cal FIRE, operates 35 conservation camps in 25 counties. All camps are minimum-security facilities and all are staffed with correctional staff. There are 35 conservation camps. In an effort to expand employment opportunities for incarcerated persons paroling from fire camps, CDCR, Cal FIRE and the CCC partnered to implement a Firefighter Training and Certification Program in Ventura County in October 2018. The Ventura Training Center is an 18-month program that provides advanced firefighter training to eligible former offenders on parole who have recently been part of a trained firefighting workforce housed in fire camps or institutional firehouses operated by Cal FIRE and CDCR. Members of the CCC are also eligible to participate.

The Office of Federal Contract Compliance Programs (OFCCP). The OFCCP is part of the U.S. Department of Labor. OFCCP is responsible for ensuring that employers doing business with the federal government comply with the laws and regulations requiring nondiscrimination. OFCCP administers and enforces the equal employment opportunity mandates, including those for individuals with

disabilities, protected veterans, and ensure federal contractors do not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and to take affirmative actions to ensure equal employment opportunity. Specifically, the OFCCP enforces Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 4212). Generally, these mandates protect workers from discrimination and require companies doing business with the federal government to take certain affirmative steps to ensure equal employment opportunity.

Comments

SB 694. This bill requires electrical corporations to notify the CPUC, by advice letter, with a detailed summary of specified workforce development efforts completed in compliance with the OFCCP, including data on the extent to which the electrical corporation and its contractors employ former members of CCC crews, members of community conservation corps, and formerly incarcerated conservation crew members.

Advice letter and WMP compliance. As part of the WSD's oversight of WMP compliance, the WSD currently requires the electric IOUs to submit an advice letter on the projected date of spending of their annual vegetation management revenue. This bill requires electric IOUs to include information about their workforce development efforts in this advice letter. Although the WSAB recommended that IOUs submit workforce development plans as part of their WMPs, this bill establishes a framework for gathering information on the electric IOUs' ongoing efforts to recruit and diversify their workforce.

Need to expand labor pool to address wildfire risks. The author expresses his desire to address the shortages in existing electric utility wildfire mitigation workforce by providing opportunities for current and former members of the CCC and local conservation corps who have developed skills that can help fill the needs of the electric utilities. Some of the state's largest electric utilities have noted that labor shortages for wildfire mitigation work have been a challenge, including testimony provided by Pacific Gas & Electric at a hearing of the Senate Energy, Utilities, and Communications Committee. Both the CCC and the local conservation corps acquire skills that could provide a potential pool of candidates to help utilities address wildfire risks, including wildland fire suppression and vegetation management, among others. It seems reasonable that some of these current and former CCC and local conservation corps members could work for

utilities, or contractors contracted by the utilities, to implement the actions noted in the utilities' WMPs.

Data regarding previously incarcerated employees. The author has attempted to address concerns regarding collection of information for previously incarcerated employees. The bill was amended to state that data on background history shall only be collected after the start of employment on a voluntary basis, and shall not be a basis for adverse actions by the employer. These amendments seem reasonable in ensuring that employers remain in compliance with California's fair employment practices, which prohibit employers from requesting criminal background information before a conditional offer of employment. Furthermore, the bill only requires the electric IOUs to describe the extent to which they have workforce development links to organizations working with current, former, and formerly-incarcerated members of the CCC. This provision does not mandate these organizations or the electric IOUs to collect criminal history information in discriminatory ways, and it seems reasonable that IOUs can comply with this provision without violating fair employment practices.

Unclear whether California's electric IOUs file reports with the OFCCP. As of the date of this analysis, it is unclear whether California electric IOUs file reports with the U.S. Department of Labor in compliance with the OFCCP requirements, as those requirements apply to entities conducting business/retaining contracts with the federal government. As such, it is unclear whether these provisions apply to California electric utilities, which would allow for the specified workforce information to be readily available to be provided to the CPUC, as required by this bill.

Related/Prior Legislation

SB 1448 (Bradford, 2020) would have required an electrical corporation's WMP to include a description of how the electrical corporation will develop sufficient numbers of experienced personnel necessary to complete the work described in the plan, as provided. The bill was held in the Assembly Committee on Utilities and Energy.

SB 247 (Dodd, Chapter 406, Statutes of 2019) made several changes related to the vegetation management requirements of electrical corporations, including: specifying qualifications and prevailing wages for line clearance tree trimmers, and other requirements.

AB 1054 (Holden, Chapter 79, Statutes of 2019) shifted the responsibility for review of WMPs from the CPUC to the WSD of the CPUC (temporarily located there) and made modifications to the review process, among other provisions.

AB 111 (Committee on Budget, Chapter 81, Statutes of 2019) required, by January 1, 2020, the CPUC to establish the WSD within the CPUC and requires all functions of the WSD to be transferred to Office of Energy Infrastructure Safety, effective July 1, 2021.

AB 278 (McCarty, Chapter 571, Statutes of 2019) authorized the CCC director to enroll a person on parole in the corps.

AB 1668 (Carrillo, Chapter 587, Statutes of 2019) required the CCC to establish the Education and Employment Reentry Program to employ formerly incarcerated individuals who served on a Conservation Camp program and were recommended for participation by the CalFire director and the CDCR secretary.

AB 2126 (Eggman, Chapter 635, Statutes of 2018) required the CCC director to establish a Forestry Corps Program by July 1, 2019, as specified.

SB 901 (Dodd, Chapter 626, Statutes of 2018) established the requirement that the WMPs of each electrical corporation meet a number of specified requirements, among other provisions.

AB 864 (McCarty, Chapter 659, Statutes of 2017) authorized the CCC director, in recruiting and enrolling corps members and special corps members, to select applicants who are on probation, post release community supervision, or mandatory supervision.

SB 1028 (Hill, Chapter 598, Statutes of 2016) required electric IOUs to file annual WMPs and requires the CPUC to review and comment on those plans. The bill also required POU and electrical cooperatives to determine their risk of catastrophic wildfire that can be caused by their electric lines and equipment and, if a risk exists, submit WMPs to their governing board for its approval.

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

According to the Assembly Appropriations Committee, there a negligible state costs, if any.

SUPPORT: (Verified 9/1/21)

None received

OPPOSITION: (Verified 9/1/21)

None received

ARGUMENTS IN SUPPORT: According to the author:

> California's electric utilities are investing substantially in wildfire mitigation. The hardworking individuals doing this work are making the State safer, but the Wildfire Safety Division and the Wildfire Safety Advisory Board have found we just do not have enough of them. SB 694 helps to equitably resolve that workforce shortfall by requiring utilities to actually plan for workforce development in this area. This includes considering as a potential part of that workforce both state and local conservation camp crew members, as well as formerly incarcerated conservation crew members, given the directly-relevant experience of each group to wildfire mitigation.

ASSEMBLY FLOOR: 70-0, 9/7/21
AYES: Aguiar-Curry, Arambula, Bennett, Berman, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks
NO VOTE RECORDED: Bauer-Kahan, Bloom, Cooper, Gabriel, Lorena Gonzalez, Gray, Levine, Seyarto, Wood, Rendon

Prepared by: Nidia Bautista / E., U., & C. / (916) 651-4107
9/7/21 20:39:05

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

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UNFINISHED BUSINESS

Bill No: SB 727
Author: Leyva (D), et al.
Amended: 9/2/21
Vote: 21

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

SENATE JUDICIARY COMMITTEE: 9-1, 4/27/21
AYES: Umberg, Caballero, Durazo, Gonzalez, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas
NO VOTE RECORDED: Jones

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

SENATE FLOOR: 29-9, 6/1/21
AYES: Allen, Archuleta, Atkins, Bradford, Caballero, 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, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Becker, Glazer

ASSEMBLY FLOOR: 60-18, 9/9/21 - See last page for vote

SUBJECT: Labor-related liabilities: direct contractor

SOURCE: Author

DIGEST: This bill expands existing direct contractor liability to include liquidated damages and penalties in circumstances where the direct contractor fails to meet payroll monitoring and corrective action requirements, as specified.

Assembly Amendments require the Labor Commissioner to notify the direct contractor and any subcontractor on a private works project at least 30 days prior to holding a hearing, issuing a citation, or filing a civil action for the failure of a subcontractor to pay specified wage, fringe or other benefits due to workers. This notice need only describe the general nature of the claim, the project name or address, and the name of the employer.

ANALYSIS:

Existing law:

1) Requires that, if a final judgment against an employer for nonpayment of wages remains unsatisfied after a period of 30 days after the time to appeal has expired and no appeal is pending, the employer is prohibited conducting business in this state, including conducting business using the labor of another business, contractor, or subcontractor, unless the employer has obtained a surety bond and has filed a copy of that bond with the Labor Commissioner. (Labor Code §238)

2) Establishes that for contract entered into on or after January 1, 2018, a direct contractor making or taking a contract in the state for the erection, construction, alteration, or repair of a building, structure, or other private work, shall assume, and is liable for, any debt owed to a wage claimant or third party on the wage claimant's behalf, incurred by a subcontractor at any tier acting under, by, or for the direct contractor for the wage claimant's performance of labor included in the subject of the contract between the direct contractor and the owner. (Labor Code §218.7)

3) Establishes that the direct contractor's liability under this section shall extend only to any unpaid wage, fringe or other benefit payment or contribution, including interest owed but shall not extend to penalties or liquidated damages.

4) Establishes that the Labor Commissioner may enforce against a direct contractor the liability for unpaid wages created by subdivision (a) pursuant to Section 98 or 1197.1, or through a civil action but limits the direct contractor's liability to unpaid wages, including any interest owed.

5) Authorizes that a third party owed fringe or other benefit payments or contributions on a wage claimant's behalf may bring a civil action against a direct contractor to enforce such liabilities.

6) Authorizes that the court shall award a prevailing plaintiff in relevant enforcement actions reasonable attorney's fees and costs, including expert witness fees.

7) Establishes that upon request by a direct contractor to a subcontractor, the subcontractor and any lower tier subcontractors under contract to the subcontractor shall provide relevant payroll records containing information sufficient to apprise the requesting party of the subcontractor's payment status in making fringe or other benefit payments or contributions to a third party on the employee's behalf.

8) Allows a direct contractor to withhold as "disputed" all sums owed to a subcontractor if that subcontractor does not provide the relevant payroll records with which to verify that relevant wage and hour standards are being met. (Labor Code §218.7 (h))

9) Allows a joint labor-management cooperation committee to bring an action in any court of competent jurisdiction against a direct contractor or subcontractor at any tier for unpaid wages for the performance of private work. (Labor Code §218.7(b)(3))

10) Requires a joint labor-management cooperation committee, prior to commencement of an action against a direct contractor, to provide the direct contractor and subcontractor that employed the wage claimant with at least 30 days' notice by first-class mail. The notice need only describe the general nature of the claim and *does not* limit the liability of the direct contractor or preclude subsequent amendments of an action to encompass additional wage claimants employed by the subcontractor. (Labor Code §218.7)

This bill:

1) Establishes a sunset date of December 31, 2021, for Labor Code Section 218.7

2) Establishes that for contracts entered into on or after January 1, 2022, a direct contractor taking a contract in the state for the erection, construction, alteration, or repair of a building, structure, or other *private* work, shall assume, and is liable for, any debt owed to a wage claimant incurred by a subcontractor acting under the direct contractor.

3) Requires that the direct contractor's liability extends to penalties and liquidated damages if the direct contractor had knowledge of the subcontractor's failure to pay the specified wage or benefit.

4) Requires that the direct contractor's liability extends to penalties and liquidated damages if the direct contractor fails to comply with the following requirements:

   a) The contractor must monitor the payment of subcontractor wages by periodic review of payroll records.

   b) Upon becoming aware of a failure to pay wages, the contractor must take diligent corrective action to halt or rectify the failure, including withholding payments from the subcontractor.

   c) Prior to making final payment to the subcontractor, the contractor must obtain an affidavit from the subcontractor affirming that all workers have been properly paid.

   d) The Division of Labor Standards Enforcement must notify the contractor and subcontractor within 15 days of the receipt of a complaint of a failure to pay specified wages or benefits.

5) Clarifies that this bill does not prohibit a direct contractor or subcontractor from establishing a contract that addresses liability created by failure to pay wages, including penalties and liquidated damages.

6) Allows the Labor Commissioner, a third party acting on a wage claimant's behalf or a joint labor-management cooperation committee to bring a civil action against a direct contractor to enforce the liability created by the failure to pay wages or other benefits. No other party may bring an action against a direct contractor to enforce this liability.

7) Requires the Labor Commissioner to notify the direct contractor and any subcontractor on a private works project at least 30 days prior to holding a hearing, issuing a citation, or filing a civil action for the failure of a subcontractor to pay specified wage, fringe or other benefits due to workers. This notice need only describe the general nature of the claim, the project name or address, and the name of the employer.

8) Holds that the above sections do not apply to work performed by employees of the state or any political subdivision of the state.

9) Requires that a subcontractor must provide payroll records in accordance with Labor Code Section 226 to a direct contractor upon request. Further requires the subcontractor to provide information including the project name, name and address of the subcontractor, the contractor with whom the subcontractor is under contract, anticipated start date, duration, and estimated journeymen and apprentice hours, and contact information for its subcontractors on the project upon request.

10) Allows the direct contractor to withhold as "disputed" all sums owed if a subcontractor does not timely provide the information required above. A contractor must specify the documents and information that they will require from the subcontractor.

11) Holds that the provisions of this bill are severable.

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

According to the Assembly Appropriations Committee, costs of approximately $1.6 million in the first year and $1.5 million ongoing to the Division of Labor Standards Enforcement to process more complex claims for wages owed, conduct additional worksite inspections to determine who is the direct contractor and whether the "safe harbor" provisions limiting contractor liability apply and resolve new litigation filed by direct contractors (Special Fund). Although this bill does not expand when a direct contractor may be liable for wages owed, adding liability for related penalties and liquidated damages puts more money at stake, likely increasing the volume of claims, inspections and litigation.

SUPPORT: (Verified 9/9/21)

California Conference of Carpenters
Carpenters/Contractors Cooperation
Los Angeles County Young Democrats
Northern California Carpenters Regional Council
Southwest Regional Council of Carpenters
State Building and Construction Trades Council of California

OPPOSITION: (Verified 9/9/21)

Associated General Contractors
Associated General Contractors of California
Brea Chamber of Commerce
Building Industry Association of Fresno and Madera Counties
Building Industry Association of Southern California, INC.

Building Industry Association of the Greater Valley
California Apartment Association
California Builders Alliance
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
California Forestry Association
California Retailers Association
Carlsbad Chamber of Commerce
Casita Coalition
Contractors Association of Truckee Tahoe
Garden Grove Chamber of Commerce
Greater High Desert Chamber of Commerce
Lodi Chamber of Commerce
Nevada County Contractors Association
North Coast Builders Exchange
North Orange County Chamber
North Orange County Chamber of Commerce
North State Building Industry Association
Oceanside Chamber of Commerce
Painting & Decorating Contractors Association of Sacramento
Pleasanton Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
Redondo Beach Chamber of Commerce
Sacramento Regional Builders Exchange
Santa Barbara Contractors Association
Santa Barbara South Coast Chamber of Commerce
Santa Rosa Metro Chamber of Commerce
Shasta Builders Exchange
Simi Valley Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
TMG Partners
Torrance Area Chamber of Commerce
Tulare Chamber of Commerce
Valley Contractors Exchange
Ventura County Contractors Association
Wilmington Chamber of Commerce

ARGUMENTS IN SUPPORT: The California Conference of Carpenters writes in support:

> SB 727 will build upon 2017 legislation that requires direct contractors to share in the liability for the payment of wages and other contributions if their subcontractor's failed to make those payments. That law has marginally increased recovery of workers' wages. Enforcement remains rare and consequences, if any, are a minimal financial burden to the direct contractor. As a result, it provides no effective deterrence for continued wage theft violations. Unscrupulous contractors that do not play by the rules continue to have an illegal, unfair advantage over honest contractors. By undermining wages and working conditions throughout the industry the scofflaws drive a race to the bottom.
>
> Where there is wage theft, there is a high likelihood of tax and workers' comp fraud and often there are few, if any, payroll records to be found. SB 727 will give tools and the incentive to an industry badly in need of the ability to police itself. As it stands now, crime actually does pay.

ARGUMENTS IN OPPOSITION: The Associated General Contractors of California write in opposition:

> Liability is being wrongly placed on the direct contractor; while the subcontractor who is negligent in conducting their business and treatment of their employees is allowed to escape any liability. During AB 1701 discussions, the contractors suggested amendments to require the Labor Commissioner to pursue all remedies against the subcontractors who were not properly paying wages and benefits to their employees and we would again suggest this as a remedy.
>
> There is no evidence that AB 1701 is not working, and there is no need for additional liability to be extended to direct contractors. We are only aware of one incident involving underpayment and the employees of that subcontractor were made whole by the direct contractor. This bill unnecessarily penalizes direct contractors for no justifiable reason.

ASSEMBLY FLOOR: 60-18, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Megan Dahle, 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-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Choi, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Smith, Valladares, Villapudua, Voepel, Waldron

NO VOTE RECORDED: Mayes, Quirk

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
9/9/21 20:47:40

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

SENATE RULES COMMITTEE SB 784
Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 784
Author: Glazer (D), et al.
Amended: 9/1/21
Vote: 21

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

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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

ASSEMBLY FLOOR: 72-0, 9/7/21 - See last page for vote

SUBJECT: State government: emergency services: nonprofit service providers

SOURCE: Author

DIGEST: This bill authorizes a nonprofit entity that provides supportive services pursuant to a contract with the state, during a state of war emergency or a state of emergency, to adjust the method in which it provides those services so long as the purpose of the contract is served, as specified.

Assembly Amendments specify that the provisions of this bill only apply until the contracting agency determines what substitute performance in furtherance of the purpose of the contract is permissible; and specify that this bill does not apply to any contract that is void or voidable on the basis of force majeure or frustration of purpose.

ANALYSIS:

Existing law:

1) Authorizes, pursuant to the California Emergency Services Act (ESA), the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property.

2) Authorizes the Governor, during a state of emergency, to suspend any regulatory statute, or statute prescribing the procedure for conduct of state business, or the orders, rules, or regulations of any state agency, as specified.

3) Requires each department, division, bureau, board, commission, officer, and employee of this state to render all possible assistance to the Governor and to the Director of the Office of Emergency Services in carrying out the ESA.

This bill:

1) Authorizes, during a state of war emergency or a state of emergency, a nonprofit entity that provides supportive services pursuant to a contract with the state to adjust the method in which it provides those services so long as the purpose of the contract is served.

2) Requires the nonprofit entity to notify all departments from which it receives funding of a closure or of an impacted program, including whether a closure is location specific or due to executive order, and why the service level may be impacted.

3) Requires the nonprofit entity to identify and thoroughly document all expenditures associated with the closed program, and to retain documentation to justify expenses and to support claiming continued state funding.

4) Specifies that fixed and regular costs that continue to be incurred shall be paid normally; hourly employees, including those that would not otherwise be paid when a program is not operating, should be paid the anticipated wage during the closure; and, if there are any expenses that will not be incurred due to a program closure, they should be identified and excluded from invoicing, as specified.

5) Specifies that while these expenditures may be billed using a regular monthly invoice template, the expenses related to a closure should be able to be isolated and documentation of them available upon request.

6) Requires a nonprofit entity with a cost reimbursement contract to invoice for the month, but should be flexible and responsive to departmental requests for additional documentation about expenditures during closure, which may include documentation of specific services that were expected but unable to be delivered, and costs associated with those services.

7) Specifies that a nonprofit entity with a fee-for-service contract should invoice for the month by calculating 1/12th of the contracted units of service, and should be prepared to offer documentation of specific services that were expected but unable to be delivered.

8) Requires departments that receive notification from a nonprofit entity pursuant to this bill to ensure that funding is available to pay for canceled services, closed programs, or reduced service levels.

9) Provides that this bill only applies to a contract until the contracting agency determines what substitute performance in furtherance of the purpose of the contract is permissible.

10) Specifies that this bill does not apply to a contract that is otherwise void or voidable on the basis of force majeure or frustration of purpose.

Comments

Purpose of this bill. According to the author's office, "nonprofit organizations deliver essential services to California residents on behalf of and funded by the State of California. As the COVID-19 pandemic demonstrated, many important nonprofit programs can be disrupted by a disaster or other emergency. Nonprofits need flexibility so that they continue to provide these important services to our state's most vulnerable populations. This bill allows nonprofits to adjust their contracts with the state so that they are able to better serve their communities in the event of future states of emergency."

Need for flexibility during a state of emergency. The COVID-19 pandemic, and corresponding state of emergency has forced all organizations to adapt the way they operate. Over 80,000 nonprofits operate in California, and nonprofit organizations rank as the fourth largest industry in California by employment, with nearly one million people employed in the sector throughout the state, contributing approximately 15% of California's gross state product.

According to a recent report by the California Association of Nonprofits, a statewide membership organization of nonprofits, 86% of responding nonprofits reported needing changes in their contract deliverable requirements during the

COVID-19 pandemic. For example, a nonprofit foster care agency reported that due to shelter-in-place requirements, they could not do home visits to confirm the health and safety of foster care children; as a result, they were not meeting the requirements in their contracts with the state.

The author's office argues that this bill allows those nonprofits to adjust their service in the event of future emergency, so long as they continue to serve the main purpose of the contract. The current language of this bill is based on guidance from San Francisco County, which issued guidance at the beginning of the COVID-19 pandemic, allowing nonprofit services to adjust their compliance with their contracts so long as the purpose was still served, and the nonprofit thoroughly documented its expenditures.

Related/Prior Legislation

SB 52 (Dodd, 2021) defines a "deenergization event" as a planned power outage, as specified, and includes a deenergization event in the list of conditions constituting a local emergency, with prescribed limitations. (Pending at the Governor's Desk)

SB 543 (Limon, 2021) requires a state agency that significantly regulates or impacts nonprofit corporations to designate a person to serve as a nonprofit liaison, as specified. (On the Senate Inactive File)

AB 1403 (Levine, 2021) includes deenergization, defined as a PSPS, within conditions constituting a state of emergency. (Pending on the Senate Floor)

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

According to the Assembly Appropriations Committee, likely negligible costs, as individual nonprofit entities under varying contract terms may already be able to seek a contract amendment when unforeseen circumstances arise. However, this bill may result in potential costs of an unknown amount if nonprofit entities continue to receive funding they would otherwise not receive.

SUPPORT: (Verified 9/7/21)

360 Accelerator
A and K Residential homes
A Meaningful Goal Housing Shelter
A Place Called Home
A&N Consulting Group
Adolescent Counseling Services

Advanced Healthcare Administrators
Advanced Network Consulting, So Cal Inc.
African American Network of Kern County
Alano Club of Redding
All Peoples Community Center
All Seated In A Barn
Alliance for a Better Community
Alliance for Community Empowerment
Almaden Valley Counseling Service
Alpha House
American Muslim Community Foundation
Andrews & Van Lohn Insurance
Animal Rescue and Adoption Funds Network
Antioch Community Foundation
Asociacion de Emprendedors
Assistance League San Bernardino
Attune Connect Transform
B. J. Jordan Child Care Programs, Inc. dba Beanstalk
Bay Area Bioscience Education Community
Bay Area Women Against Rape
Be the Star You Are!
Bell Arts Factory
Belle Haven Action
Benicia Historical Museum
Bernard Osher Marin Jewish Community Center
BI-BETT Corporation
Bill Wilson Center
BirchBark Foundation
Black Students of California United
Black Trans Life Matters
Blossom Mental Health Services
Blue Humming Therapy
Boggs Tract Community Center
Boys & Girls Club of the Redwoods
Boys & Girls Clubs of Fullerton
Breathe Southern California
Brighter Beginnings
Building A Generation
CalGreen Academy
California Association for Health, Physical Education, Recreation and Dance

California Association of Food Banks
California Association of Nonprofits
California Charter Authorizing Professionals
California Creativity Association
California Parenting Institute
California ReLeaf
Caminar
Capital Stage
Catholic Big Brothers Big Sisters
Catholic Charities of Santa Clara County
Center for Land-Based Learning
Center for Leadership Equity and Research in Early Learning
Center for Living and Learning
Central California Asthma Collaborative
Changing Tides Family Services
Charity's Child Care
Child Advocates of San Bernardino County
Child Development Consortium of Los Angeles, Inc.
Choice Humanitarian
Christian Counseling Service
Circle Community Acupuncture of SF
Clothes The Deal
Club Guadalajara USA
CoachArt
Colaluca & Associates, Inc.
Collaborating Agencies' Disaster Relief Effort
Communities United for Restorative Youth Justice
Community & Corporate Bridging Intl
Community Health Partnership
Community Housing Partnership
Community Investment Strategies
Community Now CEO
Compass
Comprehensive Youth Services of Fresno Inc.
ConXion to Community
Cope Family Center
COPE Family Support Center
Council on Aging Services for Seniors
County of Alameda
Court Appointed Special Advocates Program, Inc.

Culver City Education Foundation
Dancessence, Inc. aka Donna Sternberg & Dancers
Delhi Center
Delta Humane Society SPCA of San Joaquin County
Desert Best Friend's Closet
Designated Exceptional Services for Independence
Destiny and Beyond Inc.
Digital Literacy Rocks!
DUC Learning Services
East Bay Leadership Council
East Bay Spanish Speaking Citizens' Foundation
East Contra Costa Community Alliance
Eden Youth and Family Center
El Teatro Campesino
Employed! A Supported Reentry Program
Eviction Defense Collaborative
Exceptional Children's Foundation and New Horizons
Familias Unidas
Families Forward Learning Center
Families in Transition
Family Service Agency of Santa Barbara County
Family Service Association
First Graduate
First Mayor's House of Salinas, Salinas Valley Art Gallery
First Place for Youth
First Presbyterian Church
Flights of Fantasy Media Company, dba Flights of Fantasy Story Theatre
Focus Forward
Fontana Resources at Work
Food Bank of Nevada County
Foothill Conservancy
Fortuna Adventist Community Services
Foster Care Counts
Fresh Approach
Fresno State University
Friends of the Urban Forest
Friendship Church & Community Food Pantry
From the Cradle
Glendale Babe Ruth Baseball League
Global Refugee Awareness Healing Center

Gospel Center Rescue Mission Inc.
Grassroots Ecology
GroupSync Solutions
Happy Tails
Harper Haven
Harrington Consulting
Haven Hills, Inc.
Healthy Aging Association
Healthy Cities Tutoring
Heartbeat of Champions Foundation
hOMe Consulting
Honorable Services Career Center
Humboldt Baykeeper
Illumination Foundation
Ink People, Inc.
Inland Caregiver Resource Center
Inland Empire Association of Health Underwriters
Innovations and Technical Service Foundation
Innovative Space for Asian American Christianity
Institute for Local Government
Integrated Recovery Network
International Rescue Committee
Isaac Enda Eshet Foundation, Inc.
Isiaiah House
Janet S.Cohen Consulting & Interim Services for Nonprofit Organizations
Jewish Family Service LA
Jewish Family Services of Silicon Valley
John S. Andrews Consulting
Kalia's Heart
Kern County Wrestling Association
Kern Green
Kids Community Dental Clinic
Kids First Foundation of San Bernardino
Kingdom International Mission
Kingdom University of California
Kutturan Chamoru Foundation
LA Community Legal Center and Educational
LA ConservationCorps
LA Global Care
Lesly’s CPR

Let's Kick ASS AIDS Survivor Syndrome
Light of Knowledge Child Care Program
Livermore Valley Winegrowers Association
Loaves and Fishes Family Kitchen
Local Artists Berkeley
Los Angeles LGBT Center
Lotus Healthcare
Love Beyond Limits
Love is the Answer Mission Ministries
Lyme Fight Foundation
MACLA/Movimiento de Arte y Cultura Latino Americana
Maritime Women Against Sexual Assault
Matthew Silverman Memorial Foundation
Meals on Wheels Diablo Region
MEND-Meet Each Need with Dignity
Mid-County Senior Center, Inc.
Middletown Art Center
Momentum Youth Sports Training
Mountain Counseling & Training
Mountain Homeless Coalition
Move More Eat Healthy
Museum of Northern California Art
MyndVibes, Inc
NAMI South Bay
Napa Valley Community Organizations Active in Disaster
Napa Valley Support Services
National Stewardship Action Council
NEOGAIA, A.C.
New Arts Foundation
New Horizons
New Horizons: Serving Individuals with Special Needs
Nonprofit Strategies
Nor Rel Muk Wintu Nation
Nurse Dee Foundation, Inc.
O.S.K.I.E 6, Inc.
Oasis Inc.
Oceans Rock
Old Timers Fire Fighters
Omni Youth Programs
One Step a la Vez

Open Heart Kitchen
Opportunity Junction
Optimal Solutions Consulting
Our Community Works
Pacific Asian Counseling Services
Palm Springs Unified
Parenting Time, Inc.
PathPoint
Peace Over Violence
Peace-It-Together Counseling Agency
Peninsula Family Service
People Who Care Children Association
Pescadero Foundation
Pescadero Public Radio Service, Inc.
Phone Home Foundation
Positive Results Center
Project MORE
Project Sentinel
Proyecto Pastoral at Dolores Mission
Rainbow Community Center of Contra Costa County
Raise A Child Inc.
Refugee Children Center
Regenerate California Innovation
Renaissance Entrepreneurship Center
Reservoir Engineering Research Institute
Restoration Diversion Services
Richmond Main Street Initiative
Rock'n Our Disabilities Foundation
Sacramento Splash
Samahan Health Centers
San Diego for Every Child
San Francisco Community Agencies Responding to Disaster
Santa Barbara City College Foundation
Sebastopol Area Senior Center
Self Awareness and Recovery
Self-eSTEM
Sequoia Consulting Associates, LLC
Sequoia Riverlands Trust
Shasta Cascade Health Centers
SHE QUENCE 180 DEGREES

Sickle Cell Disease Foundation
Side by Side
Sister to Sister 2, Inc.
Slow motion beats no motion, Inc.
Smile Unto Him
Socal Girls Fastpitch
SoCal Service Corps
Southeast Asian Community Center
Southern California Grantmakers
Sow a Seed Community Foundation
SparkPoint Contra Costa
St. John Boys Home, Inc.
St. Paul's Early Childhood Development Center
Stockton Community Steering Committee
Straight Talk Clinic, Inc.
Sunflower Hill
Sunshine Community Resource Organization Center
Sweetwater Collaborative
The 418 Project
The Black Odyssey Community Homes
The Can Man
The Family Giving Tree
The International Academy of Jazz
The Mexi'cayotl Indio cultural Center
The Nonprofit Partnership
The Oertel Group
The Unity Council
The Warehouse Ministry Visalia
The Woman's Club of Bakersfield
TigerBear Productions
Time of Change
TLC Room and Board
Transformative in-Prison Workgroup
Truth and Love Christian Church
Turning Point Alcohol and Drug Education Program, Inc.
Tycltickle.org
United Way of San Luis Obispo County
University of Redlands
Up & Coming Actors
US Africa Institute

Vicissitude Solutions
Vietnamese American Nongovernmental Organization Network
Village Community Resource Center
Volunteer Center of Santa Cruz County
Waking the Village
Waymakers
Weaving Earth, Inc.
We're In this Together
White Hall Arts Academy
William James Association
Willing 2 Move Forward
Wilshire Group
Worksite Wellness LA
Written For Christ
Youth Homes, Inc.
Youth Research Vox

OPPOSITION: (Verified 9/7/21)

None received

ARGUMENTS IN SUPPORT: The California Association of Nonprofits writes that, "California nonprofits provide vital services to our communities, including 32 percent of all Medi-Cal services, and have stepped up even more during the pandemic to respond quickly and flexibly to the needs of Californians. The current crisis has highlighted the need for nonprofit organizations to be able to adapt their contracted programs during emergencies and to shift expenses to cover new costs associated with the crisis."

ASSEMBLY FLOOR: 72-0, 9/7/21
AYES: Aguiar-Curry, Arambula, Bennett, Berman, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Friedman, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood

NO VOTE RECORDED: Bauer-Kahan, Bloom, Frazier, Gabriel, Lorena Gonzalez, Gray, Levine, Rendon

Prepared by: Brian Duke / G.O. / (916) 651-1530
9/7/21 20:39:07

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

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UNFINISHED BUSINESS

Bill No: SB 800
Author: Archuleta (D) and Roth (D)
Amended: 9/3/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 4/19/21
AYES: Roth, Archuleta, Bates, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21
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: 79-0, 9/9/21 - See last page for vote

SUBJECT: Real estate: licenses

SOURCE: Author

DIGEST: This bill makes various changes to the Real Estate Law intended to improve oversight of real estate and real estate appraiser professionals stemming from the joint sunset review oversight of the Department of Real Estate (DRE) and Bureau of Real Estate Appraisers (BREA).

Assembly Amendments address chaptering issues and replace references to the Department of Business Oversight with the Department of Financial Protection and Innovation.

ANALYSIS:

Existing law establishes the Real Estate Law, which provides for the licensing and regulation of real estate professionals by the DRE and BREA. Generally speaking, DRE and BREA are responsible for licensing, enforcement, continuing education, and managing fee structures and systems for their real estate and real estate appraiser professionals.

This bill makes various changes to the Real Estate Law intended to improve oversight of real estate and real estate appraiser professionals stemming from the joint sunset review oversight of DRE and BREA.

Background

The Senate Business, Professions and Economic Development Committee and the Assembly Committee on Business and Professions (Committees) conducted several oversight hearings in November 2020 and March/April 2021. This bill and the accompanying sunset bills implement legislative changes as recommended by staff of the Committees, and which are reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year.

DRE. DRE currently licenses 421,624 persons in California. Licensed real estate salespersons (291,759) outnumber real estate licensed brokers (129,865) nearly two to one. Of these real estate licensees, over 26,000 have a Mortgage Loan Originator (MLO) endorsement that allows the licensee to originate residential mortgage loans. In FY 2019/2020, DRE issued over 17,396 new salesperson licenses and 3,911 new broker licenses. DRE's enforcement efforts resulted in 184 license application denials, 414 licensing disciplinary actions (revocations, surrenders, suspensions, and public reprovals), and 20 desist and refrain orders. Additionally, DRE issued over 2,852 final public reports, which translated to 33,679 new housing units being offered for sale in California in FY 2019/20.

BREA. In 1989, Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) was adopted by the United States Congress mandating all states to license and certify real estate appraisers who appraise property for federally related transactions. The Bureau licenses and regulates real estate appraisers in California. The Bureau is entirely funded by regulatory fees.

Review of DRE. The Committees requested DRE inform the Legislature of any outstanding technical issues. In response, the bill:

- Allows DRE to suspend, revoke, deny, or delay the license of a real estate licensee if that person had received an order of debarment from another jurisdiction (another agency within the state, a license in another state, or a license issued by the federal government).

- Expands the definition of "good standing" used for a continuing education exemption for licensees over the age of 70 with 30 years of experience, specifically adding "who has not surrendered a license while under investigation of while subjection to a disciplinary action, or received an order of debarment" to the existing definition.

- Removes specific gender references and replace references to the "bureau" of real estate with "department" of real estate.

DRE does not track applicants with military education, training, or experience that may count toward meeting licensing or credentialing requirements. It is possible that some military experience will qualify as equivalent to the two years of salesperson experience necessary for the broker examination, but that information is reviewed on a case-by-case basis. The bill implements changes previously authorized when DRE was a bureau under DCA, including inquiring on the licensee application if applicant is current or former military and expediting applications for honorably discharged service members expediting applications for military spouses.

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

According to the Assembly Appropriations Committee, the bill will result in ongoing costs of approximately $56.7 million annually to support 314.0 positions for the continued operation of DRE's licensing and enforcement activities and ongoing costs of approximately $6.3 million annually to support 26.0 positions for the continued operation of the BREA's licensing and enforcement activities. This fund is fully self-supporting with fee revenue.

SUPPORT: (Verified 9/9/21)

None received

OPPOSITION: (Verified 9/9/21)

None received

ASSEMBLY FLOOR: 79-0, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, 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, 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: Cooley

Prepared by: Dana Shaker / B., P. & E.D. /
9/9/21 21:01:05

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

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UNFINISHED BUSINESS

Bill No: SB 820
Author: Committee on Governmental Organization
Amended: 8/30/21
Vote: 21

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

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/22/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

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: 79-0, 9/9/21 - See last page for vote

SUBJECT: Horse racing: state-designated fairs: allocation of revenues: gross receipts for sales and use tax

SOURCE: Western Fairs Association

DIGEST: This bill makes specified changes related to the calculation of revenues for California fairs derived from sales tax collected on state-designated fairgrounds.

Assembly Amendments increase the 10-day timeline to transfer the appropriation to 30 days, and make other technical changes.

ANALYSIS:

Existing law:

1) Imposes the sales tax on every retailer engaged in business in this state that sell tangible personal property, and requires them to collect the appropriate tax from the purchase and remit the amount to the California Department of Tax and Fee Administration (CDTFA).

2) Requires that a return filed with the CDTFA to report gross receipts for sales and use tax purposes to segregate the gross receipts of the seller and the sales price of the property on a line or separate form as prescribed by the CDTFA when the place of sale is on or within the real property of a state-designated fair or any real property of a state-designated fair that is leased to another party.

3) Requires that three-fourths of 1% of the total amount of gross receipts, or adjusted gross receipts, be reported to the Department of Finance (DOF) to be included in the next annual Governor's Budget for the Department of Food and Agriculture (DFA) for allocation to fairs, as specified.

4) Requires that the total gross receipts be subject to review by the CDTFA for errors.

5) States that the DFA is responsible for ensuring the integrity of the Fair and Exposition Fund, administering allocations from the fund to the network of California fairs, and providing oversight of activities carried out by each California fair.

This bill:

1) Specifies that the CDTFA shall report the amount of the total gross receipts, or adjusted gross receipts, segregated on specified returns filed be for the prior fiscal year, as specified.

2) Specifies that no later than 30 days after the enactment of the annual Budget Act, the amount appropriated by the Legislature to DFA pursuant to existing law be transferred by the State Controller to the Fair and Exposition Fund in the State Treasury.

3) Makes other clarifying changes and deletes obsolete provisions.

Background

California's Network of Fairs. Existing law establishes a network of California-designated fairs, composed of 52 district agricultural associations (DAA), 23 county fairs, two citrus fruit fairs, and the California Exposition and State Fair (Cal Expo). DAAs are state government entities governed by nine-member governor-appointed boards of directors, county fairs are either directly operated by counties or not-for-profit organizations; citrus fruit fairs are not-for-profit organizations; and Cal Expo is a state agency.

The Division of Fairs and Expositions within DFA provides fiscal and policy oversight for the network of California fairs. The Department of General Services (DGS) provides oversight for use of state property, procurement, and services contracts. Satellite wagering license fees are deposited into a separate account in the Satellite Wagering Account (SWA), and continuously appropriated for specified fair-related purposes, including the payment of expenses incurred in establishing and operating satellite-wagering facilities at fairs.

Prior to 2009, license fees imposed on horse racing wagers were deposited into the Fairs and Exposition Fund and the SWA, which supports the annual budget of the California Horse Racing Board, and supplements California fairs. However, in 2009, the Legislature shifted the horse racing industry's obligation to fund fairs through license fees imposed on wagers to the General Fund, instead providing an annual continuous appropriation of $32 million from the General Fund to support fairs. However, the 2011-12 State Budget Act eliminated General Fund contributions to the Fairs and Exposition Fund, requiring DAAs and all other designated fairs to be self-sufficient as of January 1, 2012.

California's sales and use tax. State law imposes the sales tax on every retailer "engaged in business in this state" that sells tangible personal property, and requires them to register with CDTFA, as well as collect appropriate tax at purchase and remit the amount to CDFTA. Sales tax applies whenever a retail sale occurs, which is generally any sale other than one for resale in the regular course of business. The current rate is 7.25% as shown in the table below. Additionally, cities, counties, and specified special districts may increase the sales and use tax, also known as district or transactions and use taxes.

Rate	Jurisdiction	Purpose/Authority
3.9375%	State (General Fund)	State general purposes
1.0625%	Local Revenue Fund (2011 Realignment)	Local governments to fund local public safety services
0.50%	State (1991 Realignment)	Local governments to fund health and welfare programs
0.50%	State (Proposition 172 - 1993)	Local governments to fund public safety services
1.25%	Local (City/County) 1.00% City and County 0.25% County	City and county general operations. Dedicated to county transportation purposes
7.25%	**Total Statewide Rate**	

While component parts of the sales and use tax are allocated for specific state and local purposes, all revenue generated from the base state sales and use tax rate flows to the General Fund, which the Legislature then allocates to specific purposes annually in the Budget Act, with one exception…

Increasing funding for California's fairs. AB 1499 (Gray, Chapter 798, Statutes of 2017) required retailers making sales at events held on state-designated fairgrounds to segregate the gross receipts from these sales when filing their sales and use tax returns. Taxpayers who hold a seller's permit for a permanent place of business and who make sales both at events at state-designated fairs and events held at other locations are required to segregate those sales made at state-designated fairs. AB 1499 required the CDTFA to calculate three-fourths of 1% of those gross receipts and to report the amount to DOF to be included in the Budget for allocation to the DFA to fund state-designated fairs.

AB 1499 became effective on July 1, 2018, but did not specify the fiscal year upon which CDTFA and DOF should make its required calculations and allocations. On November 1, 2019, CDTFA reported the amount segregated on returns for sales made between July 1, 2018, and June 30, 2019. Based on CDTFA's reporting, the DOF included $18.6 million for allocation to DFA for allocation to fairs both for the 2019-20 fiscal year for the sales that previously occurred, as well as an estimate for the Governor's proposed budget for 2020-21.

However, CDTFA indicated that there were significant errors from retailers when segregating sales made on the property of state-designated fairs, and noted that in its report to DOF. As a result, the Legislature enacted a subsequent measure, AB 92 (Committee on Budget, Chapter 18, Statutes of 2020), that:

- Provided that CDTFA's calculation of total gross receipts is subject to its review for errors.

- Required CDTFA to note any errors identified in the review and the approximate impact of those errors on the total gross receipts in its report to DOF to allow an adjusted total gross receipt amount to be determined.

- Allowed the review to include a sample of returns.

- Applied retroactively to the 2019-20 fiscal year, and to all subsequent fiscal years, with respect to calculating the amount included in the Governor's Budget.

As a result of the errors, DOF used AB 92's provisions to reduce the amount of funds allocated to DFA for allocation to fairs from the estimated $18.6 to the figure based on adjusted gross receipts of $7.9 million. DOF used this same $7.9 million figure as an estimate for sales made between July 1, 2020, and June 30, 2021, for amounts allocated to CDTFA for fair purposes the Governor's proposed 2021-22 Budget. CDTFA will report sales based on returns filed during that period in November.

This bill specifies that by November 1 of each year, when the CDTFA reports to DOF the amount of the total gross receipts, or adjusted gross receipts, segregated on tax returns pursuant to existing law, it be for the prior fiscal year; specifies that no later than 30 days after the enactment of the annual Budget Act, the amount appropriated by the Legislature to the DFA be transferred by the State Controller to the Fair and Exposition Fund; and, makes clarifying changes and deletes other obsolete provisions of law.

Related/Prior Legislation

AB 1499 (Gray, Chapter, Statutes of 2017) directed retailers to segregate the amount of gross receipts from sales at fairs; required the CDTFA to calculate ¾ of 1% of those gross receipts and report this amount to the DOF; and, required the Governor's Budget to include those amounts in the Budget for allocation to the DFA to fund state-designated fairs.

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

According to the Assembly Appropriations Committee, no costs to CDTFA or the State Controller's Office (SCO). However, the SCO notes that the 10-day timeline to transfer the appropriation is not feasible. Potential General Fund (GF) cost pressures in the millions of dollars if an inaccurate higher amount of SUT revenues is allocated to fairs, resulting in lower GF revenues to support other state programs.

SUPPORT: (Verified 9/8/21)

Western Fairs Association (source)

OPPOSITION: (Verified 9/8/21)

None received

ARGUMENTS IN SUPPORT: According to the Western Fairs Association, "SB 820 helps provide a reliable funding source for California's network of fairs and offers much needed financial support for projects involving public health and safety, infrastructure, deferred maintenance, and emergency management. By changing the date to November 1 of each year, SB 820 ensures that fairs receive the full amount of funding that they are entitled under AB 1499 of 2017."

ASSEMBLY FLOOR: 79-0, 9/9/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, 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, 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: Cooley

Prepared by: Brian Duke / G.O. / (916) 651-1530
9/9/21 20:53:41

****** 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 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 SR 55
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

CONSENT

Bill No: SR 55
Author: Portantino (D), et al.
Introduced: 8/18/21
Vote: Majority

SENATE EDUCATION COMMITTEE: 4-0, 9/7/21
AYES: Leyva, Ochoa Bogh, Cortese, Pan
NO VOTE RECORDED: Dahle, Glazer, McGuire

SUBJECT: Italian American Heritage Month

SOURCE: Author

DIGEST: This resolution resolves that the Legislature designates the month of October 2021, and every October thereafter, as Italian American Heritage Month, and encourages public schools to highlight and include Italian American achievements and contributions to the culture of California and to take steps to promote the inclusion of Italian American history in elementary and secondary social science textbooks during the revision process for those textbooks.

ANALYSIS:

Existing law:

1) Provides that the adopted course of study in grades 1 through 12 for instruction in social sciences shall include the early history of California and a study of the role and contributions of both men and women, Native Americans, African Americans, Mexican Americans, Asian Americans, Pacific Islanders, European Americans, lesbian, gay, bisexual, and transgender Americans, persons with disabilities, and members of other ethnic and cultural groups, to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the role of these groups in contemporary society. (Education Code § 51204.5)

2) Requires the Instructional Quality Commission to recommend curriculum frameworks to the State Board of Education (SBE) and develop criteria for evaluating instructional materials submitted for adoption so that the materials adopted adequately cover the subjects in the indicated grade levels. (EC § 60204)

3) Requires governing board, when adopting instructional materials for use in the schools, to include only instructional materials which, in their determination, accurately portray the cultural and racial diversity of our society, including:

   a) The contributions of both men and women in all types of roles, including professional, vocational, and executive roles.

   b) The role and contributions of Native Americans, African Americans, Mexican Americans, Asian Americans, Pacific Islanders, European Americans, lesbian, gay, bisexual, and transgender Americans, persons with disabilities, and members of other ethnic and cultural groups to the total development of California and the United States.

   c) The role and contributions of the entrepreneur and labor in the total development of California and the United States. (EC 60040)

4) Resolves that the Legislature designates the month of October 2009 and every October thereafter as Italian American Heritage Month. Resolves that the Legislature encourages public schools to highlight and include Italian American achievements and contributions to the culture of California and to take steps to promote the inclusion of Italian American history in elementary and secondary social science textbooks during the revision process for those textbooks. (Resolution Chapter 113, Statutes of 2009)

5) Resolves that the Legislature designates the month of October 2018 as Italian American Heritage Month. Resolves that the Legislature encourages public schools to highlight and include Italian American achievements and contributions to the culture of California and to take steps to promote the inclusion of the role and contributions of Italian Americans to the culture and history of California and the United States in the elementary and secondary school social science textbooks during the revision process for those textbooks. (Res. Ch. 244, Statutes of 2018)

This resolution resolves that the Legislature designates the month of October 2021, and every October thereafter, as Italian American Heritage Month, and encourages public schools to highlight and include Italian American achievements and

contributions to the culture of California and to take steps to promote the inclusion of Italian American history in elementary and secondary social science textbooks during the revision process for those textbooks. Specifically, this resolution:

1) States, among other things, that:

   a) A study published in December 2004 of social science textbooks used in California schools and universities by Lawrence DiStasi and the Italian American Textbook Committee, titled The Treatment of Italian Americans in California Textbooks, found that Italian American contributions were largely absent from elementary, secondary, and postsecondary textbooks used in California.

   b) Italian Americans are the sixth largest ethnic group in America, numbering roughly 25 million people, with nearly 1.5 million residing in California. For much of the 20th century, Italian Americans were the largest immigrant group in the United States, yet they are not extended proper credit for their role in shaping American culture.

   c) Italian American contributions to California and United States history can be easily incorporated in the current elementary and secondary curriculum content. Including the vital role of Italian Americans in shaping California into the state it is today will help pupils truly understand a significant part of our state's unique culture and will help them understand how the interdependence of people of diverse racial, ethnic, and cultural differences makes our country truly great.

   d) In 1996, the Legislature established the California Italian-American Task Force. The highest priority of the task force is the inclusion in the public school curriculum of Italian American history, achievements, and contributions.

2) Resolves that:

   a) The Legislature designates the month of October 2021, and every October thereafter, as Italian American Heritage Month.

   b) The Legislature encourages public schools to highlight and include Italian American achievements and contributions to the culture of California and to take steps to promote the inclusion of Italian American history in elementary and secondary social science textbooks during the revision process for those textbooks.

Comments

Need for the bill. According to the author, "A study published in December 2004 of social science textbooks used in California schools and universities by Lawrence DiStasi and the Italian American Textbook Committee, titled 'The Treatment of Italian Americans in California Textbooks,' found that Italian American contributions would largely absent from elementary, secondary, and postsecondary textbooks used in California"

History-Social Science Standards and Framework. The History-Social Science Content Standards, adopted in 1998, require inclusion of ethnic groups, including Italians and Italian Americans, in the discussion of historical events throughout all grade levels. For example, the 11th grade standards on the topic of America's participation in World War II state:

> Discuss the constitutional issues and impact of events on the U.S. home front, including the internment of Japanese Americans (e.g., Fred Korematsu v. United States of America) and the restrictions on German and Italian resident aliens; the response of the administration to Hitler's atrocities against Jews and other groups; the roles of women in military production; and the roles and growing political demand of African Americans.

The State Board of Education adopted the most recent version of the History-Social Science Framework on July 14, 2016. It will not be revised again until 2024, as the Instructional Quality Commission revises the frameworks on an eight-year cycle. The framework includes references to the content above as well as, "In addition, many persons of Italian and German origin who were in the United States when World War II began were classified as "enemy aliens" under the Enemy Alien Control Program and had their rights restricted, including thousands who were interned.

This resolution highlights examples of individual Italian American achievements and contributions such as that of Bay Area native Amedeo Pietro "A.P." Giannini, who established the first branch banking system in the U.S. known as Bank of America; Italian immigrant Marco Fontana, who arrived in the United States in 1859 and started the California Packing Company under the Del Monte label; Domenico Ghirardelli, who settled in San Francisco during the Gold Rush and founded the Ghirardelli Chocolate empire; and of Andrea Sbarboro who is credited as one of the major founders of the California wine industry.

These individuals do not appear to be highlighted in the most recent revision of the framework.

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

SUPPORT: (Verified 9/7/21)

None received

OPPOSITION: (Verified 9/7/21)

None received

Prepared by: Lynn Lorber / ED. / (916) 651-4105
9/8/21 22:21:32

****** 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 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 ******

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

THIRD READING

Bill No: AB 73
Author: Robert Rivas (D), Eduardo Garcia (D), Lorena Gonzalez (D) and Kalra (D), et al.
Amended: 9/3/21 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 LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 7/5/21
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, 6/1/21 - See last page for vote

SUBJECT: Health emergencies: employment safety: agricultural workers: wildfire smoke

SOURCE: Author

DIGEST: This bill revises provisions of law requiring the state to establish a personal protective equipment (PPE) stockpile for pandemic or other health emergencies, by also including wildfire smoke events as a type of emergency for which a PPE stockpile would be required; adds agricultural workers to the definition of "essential workers" for purposes of access to the PPE stockpile; and requires wildfire smoke safety training for agricultural employees to be in a language and manner readily understandable by employees.

Senate Floor Amendments of 9/3/21 delete the requirement that the Division of Occupational Safety and Health (Cal/OSHA) develop and distribute training materials for agricultural employees relating to wildfire smoke, and instead require Cal/OSHA to update the content of existing wildfire smoke training regulations,

and require training provided by the employer to be in a language readily understood by employees.

ANALYSIS:

Existing law:

1) Establishes the California Emergency Services Act, which provides the Governor with broad powers to declare local and state emergencies, and to coordinate all emergency services functions for the mitigation of the effects of an emergency in California. [GOV §8550, et seq.]

2) Establishes the Office of Emergency Services (OES), and requires OES to be responsible for the state's emergency and disaster response services for natural, technological, or manmade disasters and emergencies, including responsibility for activities necessary to prevent, respond to, recover from, and mitigate the effect of emergencies and disasters to people and property. [GOV §8585]

3) Requires the California Department of Public Health (CDPH) and OES, in coordination with other state agencies, to establish a PPE stockpile, upon appropriation and as necessary. Requires CDPH to establish guidelines for procurement, management, and distribution of PPE from the stockpile, and requires the guidelines to take into account, among other things, the amount of each type of PPE that would be required for all health care workers and essential workers in the state during a 90-day pandemic or other health emergency. [HSC §131021 (c) and (d)]

4) Defines "essential workers," for purposes of the state stockpile created pursuant to 3) above, as primary and secondary school workers, workers at detention facilities, in-home support providers, childcare providers, government workers whose work with the public continues throughout the crisis, and workers in other positions that the State Public Health Officer or the Director of OES deems vital to public health and safety, as well as economic and national security. [HSC §131021 (b)(3)]

5) Establishes the PPE Advisory Committee, consisting of specified members, to make recommendations to CDPH and OES necessary to develop guidelines for the state stockpile created pursuant to 3) above. [HSC §131021(f)]

6) Establishes the California Occupational Safety and Health Act of 1973, to assure safe and healthful working conditions for all California workers. To this end, authorizes the enforcement of effective standards by the Division of Occupational Safety and Health (Cal/OSHA), the encouragement of employers

to maintain safe and healthful working conditions and the furthering of research, training and education in the field of occupational safety and health. [LAB §6300, et seq.]

7) Requires every employer to furnish and use safety devices, as well as adopt practices and methods, which reasonably render employment and a place of employment safe and healthful. Further requires an employer to do everything reasonably necessary to protect the life, safety, and health of employees. [LAB §§6401, 6403]

8) Requires that an employer ensure that employees are instructed in the use of protective equipment in accordance with the manufacturer's instructions and maintain required protective equipment in a safe, sanitary condition. [CCR Title 8 §3380]

9) Requires an employer who has determined that a workplace contains hazards to provide training for their employees including when PPE is necessary, what PPE is necessary, how to properly adjust and wear PPE, the limitations of PPE and the proper care, useful life and proper disposal method for the PPE. The employer will ensure that all employees are trained before an employee undertakes hazardous work and the employer will certify in writing that each employee has received and understood training in PPE. (CCR Title 8 §3380)

10) Establishes, though regulation, worker safety protection requirements for wildfire smoke that, among other things, requires employers, when the current Air Quality Index (AQI) for particulate matter with a diameter of 2.5 microns or smaller (PM 2.5) is equal to or greater than 151, to provide a sufficient number of respirators to all employees for voluntary use and to encourage employees to use the respirators. Requires the respirators to be devices approved by the National Institute for Occupational Safety and Health for protecting against the inhalation of PM 2.5, such as N95 filtering facepiece respirators. Provides for certain exemptions from this requirement, including enclosed buildings in which the air is filtered by a mechanical ventilation system, exposures for a total of one hour or less, and firefighters engaged in wildland firefighting. [CCR Title 8, §5141.1]

This bill:

1) Revises provisions of law requiring the state to establish a PPE stockpile for pandemic or other health emergencies, by also including wildfire smoke events as a type of emergency for which a PPE stockpile would be required.

2) Adds "agricultural workers" to the definition of "essential workers" for purposes of the statewide PPE stockpile requirement that would supply a sufficient amount of PPE for all health care workers and essential workers in the state during a 90-day emergency.

3) Defines "agricultural worker" as a person employed in one of the following: an agricultural occupation, as defined in a specified wage order of the Industrial Welfare Commission; an industry preparing agricultural products for market, on the farm, as defined in a specified wage order of the IWC; or, an industry handling products after harvest, as defined in a specified wage order of the IWC.

4) Defines "wildfire smoke" as emissions from fires in "wildlands," as defined in existing regulation to mean sparsely populated geographical areas covered primarily by grass, brush, trees, or crops, or in adjacent developed areas.

5) Revises the composition of the PPE Advisory Committee to require that the two existing representatives of labor organizations represent only nonagricultural workers, and adds two more members as follows: one representative of a labor organization that represent agricultural workers; and, a representative of an organization that represents agricultural employers.

6) Prohibits the provisions of law establishing a statewide PPE stockpile from altering an employer's duty to provide respirators as required by specified regulations governing protection from wildfire smoke.

7) Requires CDPH to report to the Legislature, within six months of the effective date of this bill, with regard to the amount of PPE in the stockpile, the amount of PPE from the stockpile that has been used, and the amount of anticipated future usage.

8) Requires Cal/OSHA to review and update the content of wildfire smoke training prescribed in specified existing regulations, and to post this content on its internet website.

9) Requires the training in 8) above to be in a language and manner readily understandable by employees, taking into account their ethnic and cultural backgrounds and education levels, including the use of pictograms, as necessary.

10) Contains an urgency clause that will make this bill effective upon enactment.

COMMENTS

1) *Author's statement.* According to the author, this bill will protect farmworkers and other agricultural workers during unhealthy air quality events caused by wildfire smoke, while also addressing the challenges that wildfire smoke events create for employers. The reality is that wildfires have always been part of life in California. It doesn't take much to remember the wildfire conditions from last year and from prior years. When our skies were orange and air was filled with choking smoke Californians were advised to stay inside and avoid activities outdoors. And while many of us had the luxury to shelter indoors with air conditioners and air purifiers, farm and agricultural workers reminded outdoors in smoky fields and orchards to pick crops that fed the nation. Despite having a "first-in-the-nation" emergency standard here in California, requiring employers to protect workers from wildfire smoke, many farm and agricultural workers didn't get the workplace protections they needed. The combination of a global pandemic and unprecedented number of wildfires put enormous strain on the availability of personal protective equipment compromising the health and safety of our farm and agricultural workers. This bill seeks to build on Cal/OSHA's standard for protecting farm and agricultural workers from wildfire smoke."

2) *Access to PPE for farmworkers.* According to the author, despite the current requirement that agricultural employers provide N95 masks to outdoor workers when air quality is poor, during the wildfire season last year, the pandemic increased the demand for N95s, which created a backlog on supply for farmworkers. The author states that many agriculture workers continued to work in the fields during unhealthy air quality conditions and during a global health pandemic. Last year, SB 275 (Pan and Leyva, Chapter 301, Statutes of 2020), among other provisions, required CDPH and OES to establish a state stockpile of PPE for all healthcare workers and "essential workers." While Cal/OSHA standards already require employers, including healthcare employers, to provide PPE such as N95 respirators when necessary (and SB 275 also required certain healthcare employers to establish their own stockpile of PPE), during a global pandemic such as the one we are experiencing today, employer supplies of PPE may be exhausted again, hence the need for a state stockpile. While the current requirement that employers provide N95s to agricultural workers during poor air quality events would still apply, this bill allows access to the state stockpile in the event of an emergency that caused agricultural employers to have insufficient N95 masks.

3) *Support.* The California Rural Legal Assistance Foundation (CRLAF) supports this bill, stating that it will help farmworkers learn about health effects of wildfire smoke and reduce exposure to smoke during wildfires. CRLAF states that California's farmworkers comprise a vulnerable population, as an aging workforce performing intense physical labor daily during unhealthy air quality conditions. CRLAF argues that the state must act to ensure that farmworkers are able to receive N95 respirators to reduce the harm cause by breathing in wildfire smoke. CRLAF also notes that during last year's wildfire season, outreach workers from their organization witnessed multiple farmworker crews working under unhealthy smoke conditions without provision of N95 respirators, but saw no evidence of Cal/OSHA field presence. La Cooperativa Campesina de California, the County of Monterey, and numerous other organizations make similar arguments in support.

4) *Support if amended*. The Leadership Counsel for Justice and Accountability (LCJA) states that they would support this bill if amended to provide support for community-based organizations (CBOs) to distribute N95 respirators, arguing that many farm workers appreciate "trusted messengers" who have a more direct and safe relationship with workers. LCJA states that CBOs should be able to distribute masks directly to workers who may feel uncomfortable accessing them from their employer. Additionally, LCJA states that they would like to see detail in this bill that ensure agricultural workers are provided with a fresh mask regularly throughout protracted fire seasons, and direction to Cal/OSHA staff who are providing masks from the stockpile to monitor the equitable distribution of masks and respond to reports of unfair or hindered mask distribution.

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

According to the Senate Appropriations Committee:

- The Department of Industrial Relations would incur first year costs of $2.1 million, and $1.9 million annually thereafter, to implement the provisions of the bill (Occupational Safety and Health Fund).

- CDPH indicates that its costs resulting from this bill would be minor and absorbable.

- This bill would not have a direct impact on the California Department of Food and Agriculture (CDFA). Any impacts to CDFA related to coordination would be minor and absorbable.

SUPPORT: (Verified 8/26/21)

California Insurance Commissioner, Ricardo Lara
Agriculture Council of California
Almond Alliance of California
Breathe California
California Association of Winegrape Growers
California Central Valley Journey for Justice
California Farm Bureau
California Farmworker Foundation
California Human Development
California Immigrant Policy Center
California Pear Growers Association
California Rural Legal Assistance Foundation
California Seed Association
California Teamsters Public Affairs Council
Consumer Attorneys of California
County of Monterey
Dolores Huerta Foundation
Family Winemakers of California
La Cooperativa Campesina De California
Silicon Valley Democratic Club

OPPOSITION: (Verified 8/26/21)

None received

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, 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: Gallagher

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
9/7/21 17:03:38

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

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THIRD READING

Bill No: AB 89
Author: Jones-Sawyer (D), et al.
Amended: 9/3/21 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: 49-13, 6/3/21 - See last page for vote

SUBJECT: Peace officers: minimum qualifications

SOURCE: Author

DIGEST: This bill raises the minimum age for peace officers to 21 and requires the Commission on Peace Officer Standards and Training (POST) and educational stakeholders develop a modern policing degree program.

Senate Floor Amendments of 9/3/21 reorganize and clarify a number of provisions of the bill.

ANALYSIS:

Existing law:

1) Sets the minimum standards for becoming a peace officer in the state of California as the following: (Gov. Code §§ 1029, 1030, & 1031; POST Regulations 1950-1955).

   a) A minimum age of 18-years of age, however agencies may choose to set a higher age requirement. (Gov. Code § 1031; subd. (b).)

b) Must be a US citizen or permanent resident who is eligible and has applied for citizenship. (Gov. Code § 1031; subd. (a).) California Highway Patrol officers must be citizens at the time of appointment. (Veh. Code § 2267.)

c) Graduation from an accredited or approved US high school (or equivalent). A 2-year, 4-year, or advanced degree from an accredited college or university will meet this requirement. Agencies may require college units or a college degree. (Gov. Code § 1031, subd. (e).)

d) Must pass a reading and writing assessment. Agencies may use the POST Entry-Level Enforcement Test or other assessment of reading and writing ability. (POST Regulation 1951.)

e) Must pass an assessment of oral communication skills. (POST Regulation 1952.)

f) May not have a felony conviction and must undergo a fingerprint and criminal history check. Fingerprints are sent to the Department of Justice (DOJ) and the FBI. Felony convictions and specified misdemeanors will disqualify a candidate. (Gov. Code §§ 1029, 1030 & 1031, subd. (c); Pen. Code § 29805; 18 USC 922, subd. (d)(9).)

g) Must undergo a thorough background based on an applicant's personal history. (Gov. Code §1031, subd. (d); POST Regulation 1953.)

h) Must undergo medical and psychological evaluations by licensed physicians and psychologists to ensure the applicant is free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer. (Gov. Code § 1031, subd. (f); POST Regulations 1954 & 1955.)

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.*)

This bill:

1) Increases the minimum qualifying age from 18 to 21 years for specified peace officers.

2) Requires the office of the Chancellor of California Community Colleges to develop a modern policing degree program with POST and other stakeholders and submit a report on the recommendations to the Legislature outlining a plan to implement the program on or before June 1, 2023.

3) Requires the report to include recommendations to adopt financial assistance for students of historically underserved and disadvantaged communities with barriers to higher education access.

4) Requires POST to adopt the recommended criteria within 2 years of when the office of the Chancellor of the California Community Colleges submits its report to the Legislature.

Background

According to a survey conducted by Christine Gardiner, Associate Professor of Criminal Justice at Cal State Fullerton, a nation-wide survey of 958 agencies found that about 30.2% of peace officers in the U.S. have a four-year college degree, 51.8% have a two-year degree, while 5.4% have a graduate degree.

According to a 2016 study by the Center on Juvenile and Criminal Justice, found that increased employment screening tests, high education requirements and augmented training hours lowers departmental use of force complaints. The study cited numerous examinations of college educated officers that indicated that college educated officers have less authoritarian beliefs, exhibit enhanced communication skills, have overall heightened job performance, and tend to receive fewer complaints. College educated officers also have fewer use of force incidents. In a 2008 examination of 186 officer-involved shootings, officer with a college education were less likely to fire a weapon by 41%. Additionally a 2002 study showed higher instances of use of force in 3,116 police-suspect encounters when the officer had less education and experience. There is little evidence to the contrary. One study found that officers with college education have higher rates of boredom on the job and can harbor hostility towards supervisors who lack education. There seems to be a consensus that higher education creates better law enforcement officers.

While higher education has proven to improve law enforcement performance and compliance with rules for effective law enforcement, there are many barriers in California to certain communities achieving higher education. Many marginalized communities have been shown to historically have less access to higher-education. These communities include Californians who come from less economically secure communities, immigrant communities, and minority communities. Improving educational opportunities, grants or scholarships to these sectors of California may mitigate concerns of less access to law enforcement careers by mandating higher-education to escape the age requirement imposed by this bill.

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

According to the Senate Appropriations Committee:

- *POST:* The commission reports one-time costs of $1.25 million ($500,000 to develop a list of courses and $750,000 for the print and media campaign) and ongoing annual costs of a little under $1 million for 9.0 new PY and related operating expenses and equipment to accomplish the requirements that would be imposed by this measure. (General Fund*)

- *Community Colleges:* The California Community Colleges Chancellor's Office report one-time local assistance costs of $48,000 for the Academic Senate and faculty to collaborate with POST on the development of courses to include as requirements for obtaining a basic certificate and develop the Associate Degree for Transfer (ADT) in modern policing and ongoing cost pressures of likely at least $1.3 million for community colleges to reward police academy students with a modern policing ADT instead of a certificate of achievement. (Proposition 98 General Fund)

  Additionally, the office minor state operations workload costs likely in the low thousands of dollars to develop a template for the transfer model curriculum for the modern policing ADT, update the "I Can Go to College" website, and help oversee the curriculum submission and review process.

- *Various Agencies:* Most other agencies with peace officer employees, including the California Highway Patrol, the University of California, the California State University, and the departments of Fish and Wildlife, Justice, and Motor Vehicles, indicate minor and absorbable costs associated with this measure.

SUPPORT: (Verified 9/3/21)

Anti-Recidivism Coalition
Aroz Consultants LLC
CA State NAACP
California Department of Insurance
California Faculty Association
California Federation of Teachers AFL-CIO
California Nurses Association
California Police Chiefs Association
California Public Defenders Association
California Public Defenders Association
California State Council of Service Employees International Union
Exonerated Nation
Exonerated Nation Inc.
Los Angeles County District Attorney's Office
March for Our Lives Action Fund
Monterey County District Attorney's Office
National Action Network
National Action Network - Sacramento Chapter
National Center for Youth Law
Re:store Justice
Sacramento County Young Democrats
San Francisco Public Defender
Santa Barbara Women's Political Committee
Sigma Beta Xi, Inc. (sbx Youth and Family Services)
Southeast Asia Resource Action Center
The Institute for Criminal Justice Training Reform
The W. Haywood Burns Institute
University of California Student Association
Youth Leadership Institute

OPPOSITION: (Verified 9/3/21)

California Correctional Peace Officers Association
California Peace Officers Association
City of Fountain Valley
League of California Cities
Peace Officers Research Association of California
San Francisco Police Officers Association

ARGUMENTS IN SUPPORT: According to the California Department of Insurance:

> "This bill, also known as the PEACE Act, would require new peace officer candidates to reach the age of 25 or obtain a college degree prior to being hired as a peace officer in California.
>
> "Current science indicates that developing areas of the brain which affect judgment and decision-making do not reach full maturation or development until the age of 25. Studies additionally show that a 4-year college education reduces the likelihood of using excessive force significantly and that it also assists in cultivating officers with high performance evaluations in comparison to those with a high school education and even some college.
>
> "My Department already requires our peace officers to either have a college degree or enough years of experience that would put them over age 25 when hired, which helps ensure our officers are capable of high-level decision-making and judgement in tense situations. By requiring new peace officer candidates to be more mature and highly educated, the PEACE Act would not only professionalize policing, but it would also help create a culture that is significantly less reliant on excessive force."

ARGUMENTS IN OPPOSITION: According to the League of California Cities:

> "AB 89 over-simplifies issues related to officer training and use of force and requires a standard that will narrow the pool of eligible candidates to a level that will likely prove unattainable for many of our smaller agencies throughout the state.
>
> "Additionally, due to differential rates of college enrollment and graduation, these requirements will hinder the recruitment of officers of color, undermining the goal of increasing officer diversity. Overall, enrollment numbers for Hispanic students is 49 percent at California State University and 22 percent at the University of California, and 4 percent at both the California State University and University of California for African-American students.

"Cal Cities understands the need to hire quality law enforcement officers and supports having more robust conversations around how to achieve that with increased standards for training and education. We do not believe simply increasing the qualifying age will satisfy this very nuanced issue."

ASSEMBLY FLOOR: 49-13, 6/3/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian, Quirk, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Cunningham, Megan Dahle, Flora, Fong, Gallagher, Kiley, Lackey, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Bigelow, Choi, Cooper, Davies, Frazier, Low, Mathis, Muratsuchi, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Rodriguez, Blanca Rubio, Salas, Villapudua, Waldron

Prepared by: Gabe Caswell / PUB. S. /
9/7/21 17:42:38

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

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THIRD READING

Bill No: AB 124
Author: Kamlager (D), et al.
Amended: 9/3/21 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 7/6/21
AYES: Bradford, Kamlager, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

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

ASSEMBLY FLOOR: 54-12, 6/2/21 - See last page for vote

SUBJECT: Criminal procedure

SOURCE: Black Futures Lab Public Policy Institute
California Coalition of Women Prisoners
Free to Thrive
Human Rights Watch
National Center for Youth Law
Survived and Punished
USC School of Law Post-Conviction Justice Project
Young Women's Freedom Center

DIGEST: This bill requires courts to consider whether specified trauma to the defendant or other circumstances contributed to the commission of the offense when making sentencing and resentencing determinations and to expand access to vacatur relief and the affirmative defense of coercion currently available to victims of human trafficking to victims of intimate partner violence and sexual violence.

Senate Floor Amendments of 9/3/21 add double-jointing language from SB 567 and AB 1540 to avoid chaptering out issues.

ANALYSIS:

Existing law:

1) States that the purpose of sentencing is public safety achieved through punishment, rehabilitation, and restorative justice. When a sentence includes incarceration, this purpose is best served by terms that are proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. (Pen. Code, § 1170, subd. (a)(1).)

2) Provides, until January 1, 2022, that when a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the choice of the appropriate term shall rest within the sound discretion of the court. (Pen. Code § 1170, subd. (b).)

3) States that the court shall select the term which, in the court's discretion, best serves the interests of justice and the court shall set forth on the record the reasons for imposing the term selected. The court may not impose an upper term by using the fact of any enhancement upon which the sentence is imposed. (*Ibid*.)

4) Authorizes a sentencing court, within 120 days of the date of a defendant's commitment into custody, on its own motion, or at any time upon the recommendation of the secretary of the Board of Parole Hearings, the county correctional administrator, or the county district attorney, to recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if they had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. (Pen. Code, § 1170, subd. (d)(1).)

5) Provides that a court resentencing under the above paragraph may reduce a defendant's term of imprisonment and modify the judgment, including a judgment entered after a plea agreement, if it is in the interest of justice. The court may consider postconviction factors, including, but not limited to, the inmate's disciplinary record and record of rehabilitation while incarcerated, evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the inmate's risk for future violence, and evidence that reflects that circumstances have changed since the inmate's original sentencing so that the inmate's continued incarceration is no longer in the interest of justice. (*Ibid*.)

6) States that for youthful offenders, the court shall have discretion to resentence the defendant in the same manner as if the defendant had not been previously sentenced, provided that the new sentence, if any, is not greater than the initial sentence. The discretion of the court shall be exercised in consideration of the criteria that specifically applies to resentencing of youthful offenders. Victims, or victim family members if the victim is deceased, shall be notified of the resentencing hearing and shall retain their rights to participate in the hearing. (Pen. Code, § 1170, subd. (d)(2)(F)-(G).)

7) Authorizes a person arrested for or convicted of any nonviolent offense committed while the person was a victim of human trafficking, including, but not limited to, prostitution as described in subdivision (b) of Section 647, to petition the court for vacatur relief of their convictions and arrests. The petitioner shall establish, by clear and convincing evidence, that the arrest or conviction was the direct result of being a victim of human trafficking. (Pen. Code, § 236.14.)

8) Defines "vacate" to mean that the arrest and any adjudications or convictions suffered by the petitioner are deemed not to have occurred and that all records in the case are sealed and destroyed. (Pen. Code, § 236.14, subd. (t)(2).)

9) Defines "nonviolent offense" for purposes of the vacatur law to mean any offense not listed as a "violent felony." (Pen. Code, § 236.14, subd. (t)(1).)

10) Provides in addition to any affirmative defense, it is a defense to a charged of a crime that the person was coerced to commit the offense as a direct result of being a human trafficking victim at the time of the offense and had a reasonable fear of harm. This defense does not apply to a serious felony, a violent felony, or a violation of human trafficking. A defendant has the burden of establishing the affirmative defense by a preponderance of the evidence. (Pen. Code, § 236.23.)

11) States that if the defendant prevails on the affirmative defense the defendant is entitled to specified relief including having the records of the case sealed as specified and being released form all penalties and disabilities resulting from the charge as specified. (Pen. Code, § 236.23, subd. (e).)

12) Defines "plea bargaining" as any bargaining, negotiation, or discussion between a criminal defendant, or their counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by

the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant. (Pen. Code, § 1192.7, subd. (b).)

This bill:

1) States that unless the court finds that the aggravating circumstances outweigh the mitigating circumstances that imposition of the lower term would be contrary to the interests of justice, the court shall order imposition of the lower term if any of the following was a contributing factor in the commission of the offense:

   a) The person has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence;

   b) The person is a youth, or was a youth under the age of 26 at the time of the commission of the offense; or,

   c) Prior to the instant offense, or at the time of the commission of the offense, the person is or was a victim of intimate partner violence or human trafficking.

2) Requires the court, for purposes of resentencing, to additionally consider if the defendant has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence, if the defendant was a victim of intimate partner violence or human trafficking prior to or at the time of the commission of the offense, or if the defendant is a youth or was a person under the age of 26 at the time of the commission of the offense, and whether those circumstances were a contributing factor in the commission of the offense.

3) Provides that the court, for purposes of resentencing a youthful offender, shall discretion to resentence the defendant to a term that is less than the initial sentence if any of the following were a contributing factor in the commission of the alleged offense:

   a) The person has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence;

   b) the person is a youth, or was under 26 years old at the time of the commission of the offense; or,

c) Prior to the instant offense, or at the time of the commission of the offense, the person is or was a victim of intimate partner violence or human trafficking.

4) Creates provisions for vacatur relief similar to existing provisions for victims of human trafficking for a person convicted of any non-violent offense committed while the person was a victim of intimate partner violence or sexual violence.

5) Expands the existing affirmative defense for coercion for victims of human trafficking to apply to all crimes except violent felonies.

6) Establishes an affirmative defense to a charge of a crime that the person was coerced to commit the offense as a direct result of being a victim of intimate partner violence or sexual violence at the time of the offense and had a reasonable fear of harm. This affirmative defense excludes violent felonies.

7) Provides that if the defendant prevails on the affirmative defense the defendant is entitled to specified relief including having the records of the case sealed as specified and being released form all penalties and disabilities resulting from the charge as specified.

8) Requires the prosecutor, in the interest of justice, and in order to reach a just resolution during plea negotiations, to consider during plea negotiations, among other factors, the following circumstances as factors in support of a mitigated sentence if any of the following were a contributing factor in the commission of the alleged offense:

   a) The person has experienced psychological, physical, or childhood trauma, including, but not limited to, abuse, neglect, exploitation, or sexual violence.

   b) The person is a youth, or was a youth at the time of the commission of the offense.

   c) Prior to the instant offense, or during the commission of the offense, the person is or was a victim of intimate partner violence or human trafficking.

Comments

According to the author of this bill:

> According to the ACLU, nearly 60% of female state prisoners nation-wide and as many as 94% of certain female prison populations have a history of physical or sexual abuse before being incarcerated (ACLU:

Prison Rape Elimination Act of 2003). Black women make up a quarter of the incarcerated population in California, which when considered alongside the reality that Black women are only five percent of the adult population yet are incarcerated at five times the rate of white women, demonstrates a deplorable overrepresentation of Black women in prison (California's Prison Population). Similar disparities exist for other individuals of color, including Latinx and indigenous communities. Transgender, lesbian, and bisexual women, trans men, and gender non-conforming people are also disproportionately survivors of violence and overrepresented in prisons, though little quantitative research is available to highlight these disparities.

Despite the body of research showing that the effect of trauma and abuse drives girls into the juvenile and criminal justice systems, the system itself typically overlooks the context of abuse when determining whether to arrest or charge a girl. When law enforcement views girls as perpetrators, and when their cases are not dismissed or diverted but sent deeper into the justice system, the cost is twofold: girls' abusers are shielded from accountability, and the trauma that is the underlying cause of the behavior is not addressed. The choice to punish instead of support sets in motion a cycle of abuse and imprisonment that has harmful consequences for victims of trauma (Human Rights Project for Girls, Georgetown Law Center on Poverty and Inequality, and Ms. Foundation for Women). This research indicates that LGBT and gender non-conforming girls in particular experience higher rates of incarceration.

Moreover, judges often lack the discretion to dismiss charges, reduce harsh sentences, and strike sentence enhancements to tailor court responses to adequately serve vulnerable populations and the interest of justice. Too often, limited opportunities to present relevant mitigating evidence, and limited judicial discretion to make fair and balanced decisions leads to inequitable outcomes for trauma victims.

AB 124 is an opportunity to correct unjust outcomes of the past, provide full context of the experiences that might impact a person's actions, and use a more humanizing and trauma-informed response to criminal adjudication.

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

According to the Senate Appropriations Committee:

- The Department of Justice reports ongoing annual costs ranging from roughly $1.7 million (and 12.0 new PY) to $128,000 (and 1.0 new PY) associated with this measure, depending on how many records related to a grant of vacatur relief the department would need to seal and destroy. (General Fund)

- The Judicial Council estimates ongoing annual workload cost pressures ranging from $600,000 to $800,000 for clerk processing and court hearing time associated with vacatur petitions. 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 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 potential savings annually in reduced state incarceration costs for individuals because of shorter or avoided term of imprisonment. 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. Actual savings associated with this measure would depend on the number of individuals who avoid a sentence to, or are sentenced or resentenced to a shorter term of incarceration in, state prison than under existing law. Aside from marginal cost savings per individual, however, CDCR would experience an institutional cost savings only if the number of persons incarcerated decreased to a level that would effectuate the closing of a prison yard or wing. (General Fund)

*Trial Court Trust Fund

SUPPORT: (Verified 9/6/21)

California Coalition for Women Prisoners (co-source)
Free to Thrive (co-source)
National Center for Youth Law (co-source)
Survived and Punished (co-source)
USC School of Law Post-Conviction Justice Project (co-source)

Young Women’s Freedom Center (co-source)
3Strands Global Foundation
ACLU California Action
Alliance for Children's Rights
Black to the Future Action Fund
California Against Slavery
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Catholic Conference
California Commission on The Status of Women and Girls
California Legislative Women's Caucus
California Partnership to End Domestic Violence
California Prison Focus
California Public Defenders Association
Californians for Safety and Justice
Californians United for a Responsible Budget
Center for Public Interest Law/Children’s Advocacy Institute/Univ. of San Diego
Ceres Policy Research
Children's Defense Fund – CA
Citizens for Choice
Clergy and Laity United for Economic Justice
Communities United for Restorative Youth Justice
Community Agency for Resources Advocacy and Services
Community Legal Services in East Palo Alto
Community Works
Conxion to Community Center for Training and Careers Inc.
County of San Diego
Crime Survivors for Safety and Justice
Dignity and Power Now
Ella Baker Center for Human Rights
Essie Justice Group
Fair Chance Project
Family Violence Law Center
Felony Murder Elimination Project
Finen Family
Fresno Barrios Unidos
Initiate Justice
John Burton Advocates for Youth
Justice for Josiah
Justice LA

Kern County Participatory Defense
LA Best Babies Network
Los Angeles LGBT Center
Monarch Services
National Association of Social Workers, California Chapter
National Institute for Criminal Justice Reform
National Women's Political Caucus of Sacramento
People's Pottery Project
Re:store Justice
Rights4Girls
San Diego Youth Services
San Francisco Public Defender
Shared Hope International
Showing Up for Racial Justice Bay Area
Silicon Valley De-bug
Somos Mayfair
Sonoma County Black Coalition
Starting Over, INC.
The Art of Yoga Project
The Praxis Project
The Pride Law Firm
The W. Haywood Burns Institute
The Well Path
Transformative In-Prison Workgroup
Transgender Advocacy Group
Treasures
Uncommon Law
Women Democrats of Sacramento County
Women's Foundation California
Youth Alive!

OPPOSITION: (Verified 9/6/21)

California District Attorneys Association
California Narcotics Officers' Association
California State Sheriffs' Association
Crime Victims United of California
Orange County District Attorney

ASSEMBLY FLOOR: 54-12, 6/2/21

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

Prepared by: Stella Choe / PUB. S. /
9/7/21 19:52:20

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

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

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THIRD READING

Bill No: AB 226
Author: Ramos (D), et al.
Amended: 9/3/21 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 HUMAN SERVICES COMMITTEE: 4-0, 7/6/21
AYES: Hurtado, Jones, Cortese, Pan
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: 79-0, 6/1/21 - See last page for vote

SUBJECT: Children's crisis psychiatric residential treatment facilities

SOURCE: California Alliance of Child and Family Services

DIGEST: This bill reclassifies children's crisis residential programs as children's crisis psychiatric residential treatment facilities (PRTFs) and transfers responsibility for licensing PRTFs from the California Department of Social Services (CDSS) to the Department of Health Care Services (DHCS). This bill requires DHCS to begin the approval process for PRTFs, contingent upon an appropriation in the Budget Act, no later than January 1, 2022.

Senate Floor Amendments of 9/3/21 clarify that trauma-informed treatment in a short-term residential treatment program (STRTP) is specified in standards and regulations adopted by CDSS, and add exclusive representative of county child social workers to the list of relevant stakeholders.

ANALYSIS: Existing federal law sets forth requirements for inpatient psychiatric services for individuals under the age of 21 in psychiatric facilities or programs, including:

1) Services are provided under the direction of a physician:

   a) Provided by a psychiatric hospital that undergoes a state survey to determine whether the hospital meets the requirements for participation in Medicare as a psychiatric hospital, as specified, or is accredited by a national organization whose psychiatric hospital accrediting program has been approved by the Centers for Medicare and Medicaid Services (CMS); or a hospital with an inpatient psychiatric program that undergoes a state survey to determine whether the hospital meets the requirements for participation in Medicare as a hospital, as specified, or is accredited by a national accrediting organization whose hospital accrediting program has been approved by CMS; or,

   b) Provided by a psychiatric facility that is not a hospital and is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Families and Children, or by any other accrediting organization with comparable standards that is recognized by the state.

2) Services are provided before the individual reaches age 21, or, if the individual was receiving the services immediately before he or she reached age 21, before the earlier of the following:

   a) The date the individual no longer requires the services;

   b) The date the individual reaches 22; and,

   c) Certified in writing to be necessary in the setting in which the services will be provided (or are being provided in emergency circumstances), as specified.

3) Inpatient psychiatric services furnished in a PRTF, as specified, must satisfy all requirements governing the use of restraint and seclusion, including that each resident has the right to be free from restraint and seclusion but restraint and seclusion is permissible under specified circumstances. [42 CFR Parts 441 and 483]

Existing state law:

1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk or have been abused or neglected, as specified. [WIC §202]

2) Establishes the California Community Care Facilities (CCF) Act, which requires CDSS to administer and license various CCFs providing nonmedical care and supervision services to children, adults, and older adults, among others. [HSC §1500, et seq.]

3) Establishes within the CCF Act "children's crisis residential programs (CCRPs)," defined as a facility licensed by CDSS as a short-term residential treatment program (STRTP), as defined, that is also approved by DHCS or a county mental health plan (CMHP) to which DHCS has delegated approval authority, to operate a CCRP to serve children experiencing mental health crises as an alternative to psychiatric hospitalization. Defines "STRTP" as a residential facility operated by a public agency or private organization and licensed by CDSS that provides an integrated program of short-term, 24-hour specialized and intensive care and supervision, as specified. [HSC §1502]

4) Establishes the Medi-Cal program, administered by DHCS, under which qualified low-income individuals receive health care, mental health, and substance use disorder services. [WIC §14001.1, et seq.]

5) Requires DHCS, in consultation with CDSS and various other entities, to establish program standards and procedures for oversight, enforcement, and issuance of CCRP approvals, including provisional approvals that are effective for a period of less than one year, and to establish due process protections related to the CCRP approval process. Requires DHCS, in collaboration with various entities, to provide guidance to counties for the provision of CCRP services, including funding for children who are Medi-Cal beneficiaries and who are admitted to a CCRP, only to the extent that any necessary federal approvals are obtained and federal financial participation is available and is not otherwise jeopardized. [WIC §11462.011]

6) Defines Early Periodic and Screening Diagnostic, and Treatment Services (EPSDT) as screening services, vision services, dental services, hearing services, and other necessary health care, diagnostic services, treatment and other measures to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, including

specialty mental health services (SMHS), for eligible individuals who are under the age of 21. [42 USC §1396d(r)]

7) Requires DHCS to implement mental health managed care through contracts with CMHPs. Requires DHCS to contract with a county or counties acting jointly for the delivery of SMHS to each county's eligible Medi-Cal beneficiary population. Authorizes CMHP contracts to be awarded exclusively and on a geographic basis. [WIC §14712]

8) Requires each CMHP to establish a procedure to ensure access to outpatient SMHS, as required by EPSDT program standards, for any child in foster care who has been placed outside his or her county of adjudication. [WIC §14716]

9) Requires DHCS to license alcoholism or drug abuse recovery or treatment facilities (RTFs) that provide residential non-medical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery, treatment, or detoxification services. [HSC §11834.01, et seq.]

10) Requires a psychiatric health facility (PHF) licensed by DHCS to provide basic services, including, but not limited to, psychiatry, clinical psychology, psychiatric nursing, social work, rehabilitation, drug administration, and appropriate food services for those persons whose physical health needs can be met in an affiliated hospital or in outpatient settings. [HSC §1250.2]

11) Permits each county, for purposes of the Lanterman-Petris-Short (LPS) Act, to designate facilities, which are not hospitals or clinics, as 72-hour evaluation and treatment facilities and as 14-day intensive treatment facilities if the facilities meet those requirements as the Director of DHCS may establish, as specified. [WIC §5404]

This bill:

1) Reclassifies CCRPs as PRTFs, and transfers responsibility for licensing PRTFs from CDSS to DHCS. Requires PRTFs to provide psychiatric services to those under 21 pursuant to existing federal law above.

2) Permits DHCS to license PRTFs, operated by either a public agency or a nationally accredited private nonprofit entity, that have obtained a certification from DHCS or a CMHP that has DHCS delegated authority. Requires, contingent upon an appropriation in the Budget Act for such purses, DHCS to begin licensing PRTFs no later than January 1, 2022.

3) Requires DHCS to establish regulations for PRTFs that, at a minimum, include the following:

   a) Therapeutic programming is provided seven days a week with sufficient mental health professional and paraprofessional staff, as specified;

   b) The PRTF is staffed with sufficient personnel to accept children 24 hours a day, seven days a week, and to admit children, as specified;

   c) The established number of beds in the PRTF is consistent with the individual treatment needs of the clients served. Permits DHCS to limit the total number of beds;

   d) The PRTF includes ample physical space for accommodating who provide supports to each child, as specified;

   e) The PRTF collaborates with each child's mental health team, and others, as specified; and,

   f) The PRTF creates and assists with the implementation of a plan for transitioning each child from the program to their home and community, as specified.

4) Requires a PRTF to provide DHCS with data as it pertains to children in foster care and children not in foster care, as specified, including age and gender of clients, duration of stay, classification of staff, and types of placement to which the client is discharged.

5) Requires DHCS, in consultation with county welfare and behavioral health directors and other relevant stakeholders, as specified, to establish program standards and procedures for oversight, enforcement, and issuance of PRTF certifications. Requires DHCS to ensure the standards provide psychiatric services as required in existing federal law. Requires DHCS, in collaboration with specified entities, to provide guidance to counties for the provision of PRTF services, including funding for Medi-Cal beneficiaries, to the extent any necessary federal approvals are obtained.

6) Requires PRTFs to be used only as a diversion to admittance to a psychiatric hospital, or as a step-down service from a hospital, with an initial length of stay of up to 10 consecutive days, as specified, that conforms to federal Medicaid requirements for PRTFs and consistent with a child's individual plan, as specified.

7) Permits a PRTF to accept children who meet specified requirements, including the child is referred by a parent or guardian, physician, or licensed mental health professional, or other specified entities; the child has a serious behavioral health disorder; and the child requires a 24 hours a day, seven days a week treatment setting.

8) Permits DHCS or a CMHP to enforce PRTF certification standards, including suspending or revoking certification, imposing penalties, placing a PRTF on probation, and issue corrective action plans, as specified. Requires PRTFs standards to be consistent with Medicaid regulations in existing federal law to maximize federal financial participation.

9) Makes changes in existing law to include PRTF services in mental health and substance use disorder services, as specified.

Comments

Author's statement. According to the author, this bill takes a vital first step in providing youth the crisis stabilization services still missing from our network of behavioral health services. This bill clarifies licensing issues and ensure much-needed federal funding for Children's Crisis Residential Programs to provide urgent mental health services to children in crisis. This bill seeks to maximize federal funding for these programs and ensure the availability of these critical services for youth. Not every child in mental health crisis needs to be hospitalized, yet hospitalization remains the only alternative available in California if a child temporarily cannot be safely treated at home or in their community. Alternatives to inpatient hospitalization are essential to both children experiencing a mental health crisis and their families. Children need a calming and therapeutic place near home where they can receive treatment to work through the crisis. Community-based residential mental health crisis programs can provide just that. The primary goal of these services is to stabilize and improve psychological symptoms of distress and to engage individuals in appropriate treatment to address the causes of a crisis. These services are provided in a residential home-like setting, offering the optimum environment for a child to obtain essential therapeutic help.

(NOTE: For more information, please refer to the Senate Health Committee analysis dated June 28, 2021.)

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

According to the Senate Appropriations Committee, DHCS estimates of cost of $2 million (General and Federal Funds).

SUPPORT: (Verified 8/26/21)

California Alliance of Child and Family Services (source)
A Greater Hope Foundation
Association of Human Service Agencies
California Access Coalition
California Children's Hospital Association
California Council of Community Behavioral Health Agencies
Casa Pacifica Centers for Children and Families
Children Now
County Behavioral Health Directors Association of California
County Welfare Directors Association of California
Five Acres - The Boys' and Girls' Aid Society of Los Angeles County
Glassell Park Improvement Association
Hathaway-Sycamore
National Association of Social Workers, California Chapter
Promesa Behavioral Health
SEIU California
Seneca Family of Agencies
Side by Side
Vista Del Mar Child and Family Services

OPPOSITION: (Verified 8/26/21)

Disability Rights California
Youth Law Center

ARGUMENTS IN SUPPORT: Supporters of this bill, largely service providers serving youth, state that this bill ensures that counties and their community-based providers have the ability to develop crisis residential programs with an appropriate licensing category, and to ensure children and youth access mental health services that are responsive to their individual needs and strengths in a timely manner. The creation of the licensing category is consistent with Medi-Cal EPSDT SMHS program standards. The PRTF is a federal CMS designation. Supporters argue there is no question that a full continuum of care for children and youth is needed, and the lack of a licensing component for PRTFs is preventing the development of this much needed program. While crisis residential services are still acute in nature, they are provided in a less restrictive environment, and would be a more appropriate alternative for children who do not necessarily require the level of care that an acute inpatient hospitalization provides. The County Behavioral Health Directors Association of California argues that as seen through

the transition of children and youth back to California (after the state's decision to de-certify out of state facilities), it is clear that additional options should be developed to appropriately meet the needs of youth with severe behavioral health challenges to provide the most appropriate level of care to address their conditions and support their overall wellness, including for others who may be in need of inpatient psychiatric services, when deemed absolutely necessary and appropriate. The County Welfare Directors Association of California argues that although CMS allows PTRF rates to include room and board as a reimbursable expense, DHCS has chosen to separate room and board from mental health services in its rates for CCRPs. As a result, there is no federal cost share for room and board in CCRPs and CMHPs must use state or county funds to cover all room and board costs, and this bill clarifies that CCRPs must be approved by DHCS as PRTFs to maximize federal funding and ensure the availability of these critical services for youth.

ARGUMENTS IN OPPOSITION: Youth Law Center argues that the availability of federal Medicaid dollars to fund the placement of eligible children in PRTFs does not justify the creation of yet another institutional alternative in California's service continuum. PRTFs are a highly restrictive and costly alternative to evidenced based interventions for youth in family and community based settings. An evaluation of a federal demonstration project in 10 states of family and community based alternatives to PRTFs found that the alternatives cost only 32% of the cost to serve youth in PRTFs and produced positive outcomes across all domains including mental health and family functioning. The short- and long-term costs of PRTFs are high, particularly for foster youth who bear the emotional costs of institutionalization rather than being afforded more effective family based interventions in the community. Those costs extend throughout and well beyond the time a child remains in foster care. Foster youth who are admitted to PRTFs are more likely to experience repeated admissions, placement in other high cost institutional settings, increased time in foster care, and failed permanency, resulting in costly poor outcomes after aging out of foster care.

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: Reyes Diaz / HEALTH / (916) 651-4111
9/7/21 17:03:38

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

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(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 ******

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(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 ******

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

THIRD READING

Bill No: AB 457
Author: Santiago (D), et al.
Amended: 9/3/21 in Senate
Vote: 21

SENATE HEALTH COMMITTEE: 9-1, 6/23/21
AYES: Pan, Eggman, Gonzalez, Hurtado, Leyva, Limón, Roth, Rubio, Wiener
NOES: Grove
NO VOTE RECORDED: Melendez

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

ASSEMBLY FLOOR: 63-1, 5/27/21 - See last page for vote

SUBJECT: Protection of Patient Choice in Telehealth Provider Act

SOURCE: California Medical Association

DIGEST: This bill establishes requirements on health plans and insurers that offer telehealth through a third-party corporate telehealth provider, including disclosing the availability of receiving the services on an in-person basis or via telehealth from the enrollee's or insured's primary care provider, treating specialist or other contracting health professional, clinic, or health facility, and, reminders of cost-sharing for services from noncontracted providers.

Senate Floor Amendments of 9/3/21:

1) Delete the effective date for implementation of telehealth provider parity provisions of existing law, and add a severability clause.

2) Clarify the self-referral exemptions must be consistent with existing federal law, regulations and guidance, and delete that the internet provider does not select a licensee for the enrollee or insured.

3) Revise the bill to make clear the bill applies when an enrollee/insured chooses a third party telehealth provider.

4) Clarify that a contracted provider is also a provider employed by the plan as a network provider and a contracted clinic includes one that is owned by the plan as a network provider.

5) Expand definition of contracted facility and clarify that it includes a facility operated by the plan that serves as a network provider.

6) Clarify that services through third party telehealth provider are in-network and out-of-pocket costs accrue to deductible and out-of-pocket maximum.

7) Add demographic data and any other data required by departments to reporting requirements.

8) Require compliance with the bill for any responsibilities delegated by plans and insurers.

9) Exempt Medi-Cal managed care from the bill but indicats the Department of Health Care Services will consider the requirements of this bill as part of its stakeholder process.

10) State the bill does not apply when an enrollee/insured seeks services directly from a third-party telehealth provider.

ANALYSIS:

Existing law:

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

2) Establishes requirements for health plans, including that services are readily available at reasonable times consistent with good professional practice and to the extent telehealth services are appropriately provided that they be considered in determining compliance with timely access regulations. [HSC §1367]

3) States that a health plan or insurer is not authorized to require the use of telehealth if the health care provider has determined that it is not appropriate. [HSC §1374.13 and INS §10123.85]

4) Requires contracts issued, amended, or renewed on or after January 1, 2021, between health plans/health insurers and health care providers to specify that reimbursement and coverage for services appropriately delivered through telehealth shall be on the same basis and to the same extent as services provided in person. Prohibits coverage from being limited only to services delivered by select third-party corporate telehealth providers. [HSC §1374.14 and INS §10123.855]

5) Permits a health plan/health insurer to offer a contract containing a copayment or coinsurance for telehealth services that does not exceed the copayment or coinsurance applicable through those same services delivered in-person. [HSC §1374.14 and INS §10123.855]

6) Requires before the delivery of health care via telehealth, the health care provider initiating the use of telehealth to inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. Requires the consent to be documented. [BPC §2290.5]

7) Makes it unlawful for any person licensed under the healing arts law or the Chiropractic Initiative Act to compensate or offer inducement to others for referring patients, clients, or customers, unless authorized as a licensed referral agency, as specified. [BPC §650 and HSC §1400, et seq.]

This bill:

1) Prohibits, to the extent consistent with existing federal law, regulations, or guidelines the payment or receipt of consideration for internet-based advertising, appointment booking, or any service that provides information and resources to prospective patients of licensees from constituting a referral of a patient if the internet-based service provider does not recommend or endorse a licensee for the prospective patient.

2) Requires if a health plan or health insurer offers a service via telehealth through a third-party corporate telehealth provider all of the following conditions to be met:

    a) The health plan or insurer discloses in any promotion or coordination of the service both of the following:

i) Notice of the availability of receiving the service on an in-person basis or via telehealth, if available, from the enrollee's or insured's primary care provider, treating specialist, or from another contracting individual health professional, contracting clinic, or contracting health facility consistent with the service and existing timeliness and geographic access standards law and regulations;

ii) A reminder that if the enrollee or insured has coverage for out-of-network benefits of the availability of receiving the service either via telehealth or on an in-person basis using the enrollee's or insured's out-of-network benefits and the cost sharing obligation for out-of-network benefits compared to in-network benefits and balance billing protections for services received from contracted providers;

b) The enrollee or insured chooses to receive the service via telehealth through a third-party corporate telehealth provider after being informed of a) above;

c) The enrollee consents to the service consistent with existing law; and,

d) If the enrollee or insured is currently receiving specialty telehealth services for a mental or behavioral health condition, the enrollee or insured is given the option of continuing to receive that service with the contracting individual health professional, a contracting clinic, or a contracting health facility.

3) Requires a health plan or health insurer to comply with all of the following, if services are provided to an enrollee or insured through a third-party corporate telehealth provider:

a) Notify the enrollee or insured of their right to access their medical records pursuant to existing law;

b) Notify the enrollee or insured that the record of any services provided through a third-party corporate telehealth provider shall be shared with their primary care provider, unless the enrollee or insured objects;

c) Ensure that the records are entered into a patient record system shared with the enrollee's or insured's primary care provider or are otherwise provided to the enrollee's or insured's primary care provider, unless the enrollee or insured objects, in a manner consistent with state and federal law; and,

d) Notify the enrollee or insured that all services received through the third-party corporate telehealth provider are available at in network cost-sharing

and out-of-pocket expenses accrue to any deductibles and out of pocket maximums.

4) Requires a health plan or health insurer to include in its reports submitted to DMHC/CDI pursuant to network adequacy law and regulations, in a manner specified by DMHC/CDI, all of the following for each product type:

   a) By specialty, the total number of services delivered via telehealth, including the number provided by contracting individual health professionals and the number provided by third-party corporate telehealth providers;

   b) The names of each third-party corporate telehealth provider contracted with the plan and, for each, the number of services provided by specialty;

   c) For each third-party corporate telehealth provider with which it contracts, the percentage of the third-party corporate telehealth provider's contracted providers available that are also contracting individual health professionals; and,

   d) The types of telehealth services utilized by enrollees\insureds, including frequency of use, gender, age, demographic information, and any other information as determined by the DMHC/CDI.

5) Requires the DMHC director and Insurance Commissioner to, as appropriate, investigate and take enforcement action against a health plan or health insurer that fails to comply with these requirements and to periodically evaluate contracts between health plans/health insurers and third-party corporate telehealth providers to determine if any audit, evaluation, or enforcement actions should be undertaken by DMHC/CDI.

6) Requires a delegated entity, if a health plan delegates responsibilities to a contracted entity, including, but not limited to, a medical group or independent practice association, to comply with this bill.

7) States that this bill does not apply when an enrollee or insured seeks services directly from the third-party corporate telehealth provider.

Comments

According to the author, "COVID-19 has brought to the forefront our current health care system's inequalities. As COVID-19 continues to impact our everyday lives, it is imperative that we ensure Californians are able to access the healthcare they need in a safe, timely, and efficient manner that prioritizes positive health outcomes. As telehealth

services from third party corporate telehealth providers are becoming more normalized as a form of healthcare, we need to ensure that there are safeguards in place so that telehealth patients do not receive fragmented care. This bill will make sure patients have all the information they need to make informed decisions when accessing telehealth services from third party corporate telehealth providers. We know we must make health care accessible for all, especially for our underserved communities. This bill would enable patients to see a provider of their choice and would make it easier for records from a telehealth visit to be forwarded to a patient's primary doctor so that the patient receives the necessary follow-up care and treatment they need. This bill will ensure quality telehealth services that lead to positive health outcomes are available for all Californians."

DTC telehealth companies. A March 2017, *Health Affairs* article provided by this bill's sponsor, the California Medical Association (CMA), indicates direct-to-consumer (DTC) telehealth companies such as Teladoc, AmericanWell, and Doctor on Demand offer patients with minor illnesses around-the-clock access to a physician via telephone or videoconferencing on their smartphone, tablet, or laptop. There were a reported 1.25 million DTC telehealth visits in 2015, and Teladoc reported that in that year it provided roughly 600,000 visits—a volume almost double that of the previous year. The article states that a recent survey of large employers indicated that 90% of them plan to offer a DTC telehealth option to their employees in 2017. The article concludes that the use of telehealth by DTC telehealth companies and health plans for acute respiratory disease decreased per episode care using telehealth, was lower compared to in person care, but spending increased overall because of increased utilization services. Another study published in *JAMA Network Open* in January of 2021, finds that the DTC telehealth model may address accommodation barriers, such as inconvenient hours and appointment systems. Younger, more technologically savvy patients may consider online care as more convenient. Given the conditions managed (urinary tract infection, erectile dysfunction, and contraception), the model may also be attractive to people who are uncomfortable receiving in-person care for sexual issues (an acceptability barrier). In contrast, DTC telemedicine does not appear to preferentially attract those with clinician availability or affordability barriers. This may result from various factors, such as limited awareness about such services, lack of access to broadband services, or out-of-pocket visit costs.

Support if amended. The California Dental Association requests an amendment to delete the exemption of a licensed dentist from the definition of "contracting individual health professional," and to add a requirement on dental plans to disclose the impact of third party telehealth on the patient's benefit limits.

Related/Prior Legislation

AB 744 (Aguiar-Curry, Chapter 867, Statutes of 2019) required health care contracts after January 1, 2021, to specify that the health plan or insurer is required to cover and reimburse diagnosis, consultation, or treatment delivered through telehealth on the same basis and to the same extent that the plan or insurer is responsible for coverage and reimbursement for the same service provided through in-person diagnosis, consultation, or treatment. The bill updated other telehealth provisions in existing law.

AB 415 (Logue, Chapter 547, Statutes of 2011), among other provisions, prohibited DHCS from requiring that a health care provider document a barrier to an in-person visit prior to paying for services provided via telehealth to a Medi-Cal beneficiary. Repealed the prohibition of paying for a service provided by telephone or facsimile and would instead prohibit DHCS from limiting the type of setting where services are provided for the patient. Prohibited health plans and insurers from requiring that in-person contact occur between a health care provider and a patient before payment is made for the services appropriately provided through telehealth, subject to the terms of the relevant contract. Repealed the prohibition for paying for a service provided by telephone or facsimile and instead prohibited health plans and insurers from limiting the type of setting where services are provided for the patient or by the health care provider.

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

According to the Senate Appropriations Committee:

- Costs to CDI are expected to be minor and absorbable (Insurance Fund).
- Costs to DMHC for legal services, licensing, monitoring, enforcement and information technology of $385,000 in fiscal year 2021-22, $510,000 in 2022-23 and $325,000 annually ongoing (Managed Care Fund).

SUPPORT: (Verified 8/25/21)

California Medical Association (source)
California Academy of Family Physicians
California Chapter of the American College of Physicians Services
California Chronic Care Coalition
California Commission on Aging
California Orthopedic Association
Community Clinic Association of Los Angeles County
Zocdoc

OPPOSITION: (Verified 9/7/21)

Advanced Medical Technology Association
American Telemedicine Association
America's Health Insurance Plans
California Association of Joint Powers Authorities
California Right to Life Committee, Inc.
Health Net and its Affiliated Companies
Teladoc Health, Inc.

ARGUMENTS IN SUPPORT: According to CMA, some health plans and insurers are twisting the noble intent of telehealth by pushing patients toward third-party, corporate telehealth companies who contract with the plan, effectively sidestepping the plan's own provider network. Instead of connecting patients with a physician in their community, these companies follow a "next doc up" model, where the next physician in the queue could be literally anywhere. This raises serious questions about their ability to provide coordinated care. Furthermore, when a patient accesses a third-party corporate telehealth company, that patient may then be responsible for relaying medical information to their in-person provider and advocating for their own follow-up treatment, since their third-party corporate telehealth provider has no connection to any network in the patient's community for follow-up care. This bill will ensure patients understand that they have the right to access telehealth services from their own contracted health care physician or other network provider of their choosing. Furthermore, this bill requires third-party corporate telehealth providers to forward all records from a patient's visit to their own physician. Zocdoc writes in support that this bill promotes access to adequate and efficient telehealth services from local providers. Patients instinctively know that at some point, they'll want or need to physically be in the same room with their doctor, and they know that choosing a local provider makes it possible to pick up the conversation in-person right where it left off online. Patients don't want to be forced to choose between telehealth and an ongoing relationship with a trusted provider—and they shouldn't have to. While third party on-demand telehealth companies provide some useful services, their approach typically does not often prioritize patient choice, proximity of care, or continuity of care. This is likely to lead to a more fragmented and subpar care experience for patients. As more and more patients turn to telehealth services, it is vital that they are provided care that prioritizes positive health outcomes in an integrated manner.

ARGUMENTS IN OPPOSITION: The American Telemedicine Association (ATA) writes that this bill discriminates against certain providers using technology to deliver health care services in California without providing any sort of clinical justification as to why the additional conditions placed on "third-party corporate telehealth providers" are necessary. ATA writes the proposed legislation creates

confusion in the marketplace by awkwardly and inappropriately defining "corporate telehealth providers." Practitioners are the individuals providing health care services; telehealth platforms serve as a means by which these practitioners can deliver health care services remotely. The corporate entities which operate those platforms do not engage in the process of diagnosing or treating patients; the practitioners do and have ultimate responsibility for patient care. Teledoc health believes many of the terms of this bill are undefined and unclear.

ASSEMBLY FLOOR: 63-1, 5/27/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, 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, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Gray
NO VOTE RECORDED: Bigelow, Calderon, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Frazier, Kiley, Mathis, Nguyen, Seyarto, Smith

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
9/7/21 17:03:40

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

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THIRD READING

Bill No: AB 469
Author: Reyes (D), McCarty (D) and Quirk-Silva (D), et al.
Amended: 9/3/21 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: 77-0, 6/1/21 - See last page for vote

SUBJECT: Pupil instruction: financial aid applications

SOURCE: Author

DIGEST: This bill requires, on or before September 1, 2022, and each year thereafter, the California Student Aid Commission (Commission) and the State Department of Education (CDE) to facilitate the completion of the Free Application for Student Aid (FAFSA) and the form established for purposes of the California Dream Act (CADAA), by requiring CDE to share the current school year's roster of student with the Commission, and requiring the Commission to share and match data on student completion of financial aid forms, as specified.

Senate Floor Amendments of 9/3/21 add intent language to link the data matched required in this bill to the California Cradle-to-Career Data System, established under current law, to avoid a duplicative data-matching requirement and to ensure data privacy in the future.

ANALYSIS:

Existing law:

1) Requires a school district, county office of education, or charter school to ensure that a grade 12 pupil who has not opted out, as specified, completes and

submits a FAFSA or, if the student is exempt from paying nonresident tuition under existing law, completes and submits a form for purposes of the CADAA.

2) Requires the Commission, on or before July 1, 2022, to adopt regulations that include, but are not limited to, model opt-out forms and acceptable use policies for the purpose of providing guidance with applicable state laws.

3) Provides that information shared by parents, legal guardians, and pupils under application completion provisions be handled in compliance with the federal Family Educational Rights and Privacy Act of 2001 (20 U.S.C. Sec. 1232g) and applicable state laws, including Chapters 493 and 495 of the Statutes of 2017, regardless of any person's immigration status or other personal information, in order to protect all pupil and parent data to the fullest extent possible so that schools and all personal data remain safe.

4) Requires the school district, county office of education, or charter school to exempt a pupil or the pupil's parent or legal guardian from completing a form if the local educational agency determines the pupil is unable to complete the form, and prohibits a pupil's ability to graduate from being affected by a pupil's failure to fill out a form

This bill:

1) Requires, on or before September 1, 2022, and each year thereafter, the Commission and CDE to facilitate the completion of the FAFSA and the CADAA form established for purposes of the CADAA, by requiring the CDE to share the current school year's roster of students with the Commission, and requiring the Commission to share and match data on student completion of financial aid forms, as specified.

2) Defines the type of program a local educational agency (LEA) may direct students to for application completion assistance.

3) Makes various findings and declarations around the importance of financial aid completion and college access.

4) States that it is the Legislature's intent, upon the implementation of the California Cradle-to-Career Data System established under current, future data matching required by this bill, be linked to avoid duplication and to ensure data privacy in the future.

Comments

Related budget activity. The postsecondary education budget trailer bill, AB 132 (Committee on Budget and Fiscal Review, Chapter 144, Statutes of 2021), among other things, required, commencing with the 2022-23 academic year, an LEA to ensure a student in grade 12 completes and submits a FAFSA or CADAA, unless the student or the student's parent or guardian opts out. It further requires an LEA to exempt a student who is unable comply with the requirement, as specified. This bill amends those provisions to authorize data sharing between the Commission and CDE. It further defines outreach programs for purposes of ensuring those programs are qualified to assist students in completing the appropriate application, either the FAFSA or CADAA.

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

According to the Senate Appropriations Committee, the provisions of this bill are nearly identical of the related sections in the higher education trailer bill (AB 132, Chapter 144, Statutes of 2021). The fiscal impacts associated with those sections include:

- A reimbursable state mandate in the hundreds of thousands of dollars each year for school districts to ensure that students complete and submit the FAFSA or CADAA application. This estimate assumes that up to 10 percent of high school teachers in the state would spend at least one hour of staff time on these activities.

- Additional state General Fund costs in the millions to tens of millions of dollars and federal fund costs potentially in the low hundreds of millions of dollars costs annually for additional students becoming eligible for financial aid by completing a FAFSA. Precise amounts would depend on how many students are identified as eligible for financial aid and which college they attend. The California Student Aid Commission estimates $18.3 million for every five percent increase in the number of FAFSAs and CADAAs submitted.

SUPPORT: (Verified 9/3/21)

10,000 Degrees
99rootz
Abriendo Puertas/Opening Doors
Asian Americans Advancing Justice - California
Association of California School Administrators
BLU Educational Foundation

California Association of African American Superintendents and Administrators
California Chamber of Commerce
California Federation of Teachers, AFL-CIO
California Health+ Advocates
California Latino Legislative Caucus
California State PTA
California Student Aid Commission
Californians Together
Campaign for College Opportunity
Canal Alliance
Children Now
Children's Defense Fund - California
Community Coalition
Congregations Organized for Prophetic Engagement
Council of Mexican Federations
Dolores Huerta Foundation
ED100
Equal Justice Society
Faith in the Valley
Future Leaders of America
GENup
Go Public Schools
Greater Sacramento Urban League
Hispanic Association of Colleges and Universities
Improve Your Tomorrow, INC.
John Burton Advocates for Youth
Just Equations
Kid City Hope Place
Latino and Latina Roundtable of the San Gabriel and Pomona Valley
Law Foundation of Silicon Valley
League of Women Voters of California
Linked Learning Alliance
Los Angeles Chamber of Commerce
Mi Familia Vota
Mission Graduates
National Association of Social Workers, California Chapter
NextGen California
Northern California College Promise Coalition
Oakland Promise
Parent Organization Network

Partnership for Los Angeles Schools
The Education Trust - West
Unidosus
University of California Student Association

OPPOSITION: (Verified 9/3/21)

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, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Bigelow, Seyarto

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
9/7/21 16:51:42

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

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THIRD READING

Bill No: AB 471
Author: Low (D), et al.
Amended: 9/3/21 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/30/21
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min, Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Bates

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: 77-1, 6/1/21 - See last page for vote

SUBJECT: Bureau of Automotive Repair: administration: citations: safety inspections

SOURCE: Author

DIGEST: This bill authorizes the Bureau of Automotive Repair (BAR) to establish an informal citation conference for automotive repair dealers (ARD) on or after July 1, 2023, requires BAR until July 1, 2026 to establish a program to permit remedial training in lieu of posting minor violations online, requires BAR to collect additional information on licensing applications, and revises and recasts the provisions of the brake and lamp inspection act into a new Vehicle Safety Inspection program, as determined by the BAR.

Senate Floor Amendments of 9/3/21 address implementation issues and resolve chaptering conflicts.

ANALYSIS:

Existing law**:**

1) Establishes the Bureau of Automotive Repair (BAR) tasked with the licensure and regulation of automotive repair dealers, smog check stations, and administering the STAR certification programs through the Automotive Repair Act (Act). (Business and Professions Code (BPC) §§ 9880, 9882).

2) Requires the Director of the Department of Consumer Affairs (DCA), on their own initiative or in response to complaints, to investigate violations of the Act and of any regulation by an automotive repair dealer or automotive technician, whether registered or not, and by any employee, partner, officer, or member of any ARD, and further requires the director to establish the procedures for accepting complaints from the public against any ARD or automotive technician. (BPC § 9882.5)

This bill:

1) Authorizes the Director of DCA to include in the citation system on or after July 1, 2023:

   a) A process for informal review and recommendation on citations, including establishment of an informal citation conference conducted by a panel of independent representatives appointed by the chief of BAR, which must consist of one representative from the BAR, the public and the automotive repair industry and

   b) Until 2026, a process for an ARD upon successful completion of remedial training conducted by a provider, as specified, to prevent disclosure of the citation on the internet, and to be eligible for citation non-disclosure, the ARD cannot have attended remedial training in the prior 18-months period from the effective date of the citation.

2) Requires the BAR to adopt rules and regulations for the informal review and citation process.

3) Adds additional information to the form required for registration as an ARD to include the ARD's telephone, email address, motor vehicle license plate number, if engaged in mobile automotive repairs, other identifying data prescribed by the Director and any applicable nationally recognized and

industry accepted educational certifications and any BAR-approved educational certifications.

4) Authorizes, until July 1, 2026, the director to establish a program to certify providers of remedial training for automotive repair dealers, employees, and other persons identified as directly, indirectly controlling, or conducting and automotive repair dealer business, who have violated the Act.

5) Makes remedial training available for only those violations involving documentation or record-keeping, or that the BAR determines to be minor in nature and remedial training is not available if the violation constitutes fraud.

6) Specifies that a person who does not have a valid registration as an ARD cannot charge a storage fee of a vehicle.

7) Establishes a Vehicle Safety Inspection Program (VSIP) as follows:

   a) Authorizes the Director to develop inspection criteria and standards for specific safety systems and components of the vehicle in order to promote the safe and uniform installation, maintenance, and serving of vehicle safety systems and components.

   b) Requires the Director to issue vehicle safety inspection licenses to stations and technicians to conduct inspections, of, repairs to, safety systems of vehicles, and permits the Director to electronically issue those licenses.

8) Requires the Director, by January 1, 2024, to adopt regulations including, but not limited to the following for the VSIP:

   a) Inspection criteria and standards for specific safety systems and components of the vehicle in order to promote the safe and uniform installation, maintenance, and servicing of the vehicle safety systems and components;

   b) The application fee and process for applicants, as specified;

   c) The certificate of compliance fee and certification process for vehicles including, any specialized certification process for those vehicles certified pursuant to lamp and brake adjustment stations; and,

d) The form for the certificate of compliance is contains, at a minimum, the date of issuance, make and registration of vehicle, name of the owner and the official license of the station.

9) Requires the VISP license to replace the current licensure process under the lamp and brake adjustment stations, as specified, and permits those licenses to remain valid for six months after the Director adopts the required regulations.

10) Requires a licensee to issue a certificate of compliance to the owner or driver of a vehicle, if after conducting an inspection of, and any necessary repair to the safety systems of the vehicle, the licensee determines that the safety systems conform with the inspection criteria and standards adopted by the director.

11) Authorizes the Director to require a licensee to electronically transmit to the DCA, a record of each certificate of compliance issued.

12) Authorizes the Director to electronically submit to the Department of Motor Vehicles, certificates of compliance issued by licensees.

13) Requires the Director to evaluate the feasibility of augmenting existing database systems to support the charging of fees with respect to, and the issuance and tracking of certificates of compliance.

14) Authorizes the Director to enter into a contract for services necessary to maintain and operate an electronic certification system for the program.

15) Makes other technical and conforming changes.

Background

Bureau of Automotive Repair. Currently, BAR is responsible for the licensure and enforcement of the automotive repair industry through the Act. The Act mandates a statewide automotive repair consumer protection program, including the requirement that automotive repair dealers be registered and regulated by BAR. The Act also gives the BAR the authority to license and regulate official stations and mechanics in the areas of lamp, brake, and smog device inspection and repair.

The Act requires BAR to mediate complaints, investigate violations, and initiate action against automobile repair dealers, and Brake and Lamp stations and

adjusters that fail to comply with the provisions of the Act or BAR's regulations. In accordance with the Act, a customer is entitled to a written estimate for repair work, a detailed invoice of work done and parts supplied, and return of replaced parts, if requested at the time a work order is placed.

Cite and Fine program. BAR's Enforcement Division conducts investigations, often in response to consumer complaints, disciplines licensees who do not comply with statute or regulations, and pursues unlicensed activity against individuals who do not comply with licensure provisions specified in the Act. BAR currently has authority to issue a citation and fine for violations of the Act. BPC § 9882 requires the Director to determine the specific system required for issuing citations. Currently, the director is permitted to establish an informal citation conference for smog check licensees, but not others under the automotive repair division. The current informal citation conference program and requirements utilized by BAR for the smog check program are specified in 16 CCR § 3394.45. Currently, a request for an informal conference must be in writing, within 10 days after service of the citation to the chief of BAR, and further requires the informal citation conference to be held within 60 days from the receipt of the request for an informal conference with the cited person.

At the conclusion of the informal conference, the chief of BAR may affirm, modify or dismiss the citation, including any fine levied, order of abatement or order of correction issued and must state in writing the reasons for the action and transmit within fifteen 15 days a copy of his or her findings and decision to the cited person. Currently, the informal citation conference includes the chief of BAR, and one additional individual.

This bill allows the Director of DCA to include an informal citation conference for all licensees under the Act, and requires the BAR to determine, through regulations, many of the requirements for the program including the time frame in which one must request a hearing and the timeframe in which the hearing must occur, along with how the BAR would inform the licensee of the decision. Unlike the current program utilized by the BAR, this bill specifies that the informal citation conference would need to include a panel of three individuals including a representative from BAR, the public and the industry. BAR would be charged with determining the appropriate participants on the panel.

Permitting Training for Minor Violations. Currently, information about licensees is provided on the BAR's web site including the licensee's address, name, license number, license type, license status, and license expiration date. Citations may

also be posted online for review by consumers seeking automotive repair and smog check station services.

This bill proposes that for those *less egregious* violations such as record keeping violations (although still undetermined as to what types of violations would be considered), that do not constitute fraud, the licensees would be allowed to take some type of remedial education class or program approved by the BAR. The author likens this to traffic school when a speeding ticket has been issues. A licensee would not be eligible to have the citation removed from the internet if they had taken a remedial education course within the prior 18 months or the citation was for fraud. This bill requires the BAR to determine the specifics of this program, including the violations that would not be included on-line attached to the licensees record for a violation if they attended the training. This bill is silent on the type of training, the providers, and the number of hours that should be required, and instead requires BAR to determine the requirements through the regulatory process.

Lamp and Break Adjusting Stations. A consumer may need to utilize the services of a licensed lamp and break adjusting station when attempting to register a vehicle that has previously been reported to the Department of Motor Vehicles (DMV) as salvaged, or when a fix-it tissue has been issued. A salvaged vehicle is one that has been previously reported to the DMV as a total loss, and in order for that salvage vehicle to be eligible for road use again it must have a certificate issued from a licensed lamp and brake station, pass a smog check, and obtain a California Highway Patrol inspection. Potentially, many of these revived total loss salvage vehicles could have safety issues such as cracked windshield, illuminated air bag light, no seat belts yet still pass the brake and lamp inspection and are sold to consumers. To help address this potential problem, this bill combines the current brake and lamp program, re-names it the "vehicle safety inspection program", and requires BAR to develop additional inspection criteria standards by January 1, 2024. The goal is for the BAR to create a more robust program to determine safety standards for vehicles previously salvaged. BAR will be required to determine the updated safety systems through regulations and will allow for electronic transmittal of the brake and lamp certificates to DMV.

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

According to the Senate Appropriations Committee, the BAR notes administrative costs of approximately $6,848, total costs of approximately $149,752 to establish and implement a process for an automotive repair detailer to prevent disclosure of a citation upon successful remedial training, total costs of approximately $303,904

to administer the Vehicle Safety Systems Inspection program, information technology costs of approximately $100,000 to the Office of Information Services to add two new license categories and transition existing license types, unknown IT costs ranging between $2.0 million to $2.5 million for added system functionality that would electronically transmit vehicle safety inspection results and certificates, total annual revenue loss of approximately $1.7 million from the discontinuation of brake and lamp adjustment certificates and licenses, and unknown annual revenue gain from new vehicle safety systems inspection certificates and licenses. Costs are not anticipated to be absorbable."

SUPPORT: (Verified 9/1/21)

Auto Care Association of California
Automotive Oil Change Association
Automotive Service Association
Automotive Service Councils of California
CAWA
California Autobody Association
California Automotive Business Coalition
California Tire Dealers Association
Coalition for Automotive Repair Equality
Independent Automotive Professionals Association
Les Schwab Warehouse Center, Inc.
Motor & Equipment Manufacturers Association
Worldwide Environmental Products Inc.

OPPOSITION: (Verified 9/1/21)

None received

ARGUMENTS IN SUPPORT: Supporters say that "AB 471 is multi-faceted legislation that would, among other things, enhance the Bureau of Automotive Repair ("BAR") programs for consumers, protect consumers from unsafe salvage vehicle repairs, improve the current citation and fine regulatory program and allow for a more efficient and [expedited] disciplinary process."

ASSEMBLY FLOOR: 77-1, 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, 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, Rendon
NOES: Nguyen
NO VOTE RECORDED: Mayes

Prepared by: Elissa Silva / B., P. & E.D. /
9/7/21 16:48:41

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

Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 516
Author: Megan Dahle (R)
Amended: 9/3/21 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 6/16/21
AYES: Leyva, Ochoa Bogh, Cortese, Dahle, Glazer, McGuire, Pan

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 8/30/21
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, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Stern

ASSEMBLY FLOOR: 78-0, 5/27/21 - See last page for vote

SUBJECT: Pupil attendance: excused absences: cultural ceremonies or events

SOURCE: Author

DIGEST: This bill adds "for the purpose of participating in a cultural ceremony or event" to the list of categories of excused absences for purposes of school attendance.

Senate Floor Amendments of 9/3/21 include double-jointing language to avoid chaptering issues with SB 14 (Portantino).

ANALYSIS:

Existing law:

1) Specifies that excused absences are deemed to be absences in computing average daily attendance (ADA) and shall not generate state apportionment payments. (Education Code § 48205)

2) Provides a list of reasons that constitute an excused absence, which include, among others that the absence of a student is to be excused when the absence is:

   a) Due to his or her illness, or quarantine under the direction of a county or city health officer.

   b) Due to quarantine under the direction of a county or city health officer.

   c) For the purpose of having medical, dental, optometric, or chiropractic services rendered.

   d) For the purpose of attending the funeral services, as specified.

   e) For the purpose of spending time with an immediate family member who is an active duty member of the military, as specified.

   f) For the purpose of attending the pupil's naturalization ceremony to become a United States citizen. (EC § 48205)

3) Provides that any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse on any day or is tardy for more than 30 minutes, or any combination thereof, for three days in a school year shall be classified as "truant." (EC § 48260)

This bill adds "for the purpose of participating in a cultural ceremony or event" to the list of categories of excused absences for purposes of school attendance. Specifically, this bill:

1) Adds "for the purpose of participating in a cultural ceremony or event" to the list of categories of excused absences for purposes of school attendance.

2) Defines "cultural" to mean relating to the habits, practices, beliefs, and traditions of a certain group of people.

3) Includes double-jointing language to avoid chaptering issues.

Comments

1) *Need for the bill.* According to the author, "Across California, chronic absenteeism among American Indian or Alaska Native students is disproportionately high when compared with students of other backgrounds. More than 21 percent of students in this population qualified as chronically absent in the 2018-19 school year.

   "A Shasta County study found the Native American student population to have the second highest rate of chronic absenteeism in the district. Many of these absences were due to pupil participation in cultural ceremonies and events, which are important for personal development and to help students gain a deeper knowledge of the rich cultural heritage of this continent's indigenous people.

   "Much of America's public school system is structured to accommodate the celebration of and participation in Judeo-Christian holidays, including current California law regarding what is considered an acceptable excused absence for K-12 students."

2) *Excused absences do not generate ADA.* In California, school funding is primarily calculated using ADA. Each time a student is absent, that absence negatively impacts that local educational agency's ADA, ultimately reducing their overall funding. While each individual absence may be insignificant, in the aggregate, absences do have impact on overall funding. Under current law, all absences, whether excused or unexcused, result in a reduction of overall ADA.

3) *Unexcused absences trigger truancy provisions.* While excused and unexcused absences may be treated the same for funding purposes, they are not treated the same for attendance purposes. A student who is absent from school without a valid excuse on any day or is tardy for more than 30 minutes, or any combination thereof, for three days in a school year is considered a truant.

4) *Statewide chronic absentee data shows differences among racial/ethnic groups*. In November 2020, the California Department of Education (CDE) released, for the first time, statewide absenteeism data that provides information about the types of reasons students are absent.

   According to the CDE, "The data available in this release include the 2017–18 and 2018–19 academic years. The absentee by reason (AR) report categories are: excused absences, unexcused absences, absences due to out-of-school suspension, and incomplete independent study absences. Even if a student has

excused absences, they are considered chronically absent if they miss 10 percent of the days they were expected to attend school."

CDE further provides that "the reports provide data disaggregated by race/ethnicity, student groups, grade level, and by academic year. The reports also include filters that allow the data to be viewed along a variety of dimensions, including by school type (charter and non-charter schools), for alternative and traditional schools, for chronically absent and non-chronically absent students, and by gender."

The data shows significant differences amongst racial/ethnic groups, both in terms of comparing the percentages of absences designated as excused vs unexcused, and in the overall average number of absences. Data for the 2018-19 school year for excused and unexcused absences is below (out-of-school suspension absence percentages and incomplete independent study absence percentages are excluded here):

Reporting Category	**Avg. Days Absent**	**Excused %**	**Unexcused%**
African American	13.2	38.1%	52.7%
American Indian or Alaska Native	13.6	45.2%	43.9%
Asian	6.2	66.3%	31%
Filipino	7.3	64.2%	32.1%
Hispanic or Latino	10.3	51.1%	42.7%
Pacific Islander	12.3	49.1%	44.9%
White	9.1	64%	29.4%
Two or More Races	9.3	58.4%	33.5%
Not Reported	10.3	50.8%	38%
Statewide	9.8%	54.1%	39.5%

Root causes of absenteeism among Native American pupils. As show in the data above, Native American students miss more school, on average, than any other group; Native American students also have the second lowest excused absence rate and third highest unexcused absence rate. As noted in the Assembly Education Committee's analysis, "In Shasta County, where 4% of the student population is Native American, some school districts marked as much as 30% of their Native student population chronically absent in recent years, according to Shasta County Office of Education (SCOE) Superintendent of Schools, Judy Flores. The SCOE created the American Indian Advisory Board (AIAB), partnering with school administrators, community organizers and

representatives from each of the four tribes in Shasta County: Okwanuchu, Pit River, Yana and Wintu, to support Native students.

"Before the pandemic began, one of the first things the AIAB did was survey Native families throughout Shasta County to find out how students are doing in school, why kids are missing class and what can be done about it. The results found two of the leading causes of absences among the student demographic are sacred ceremonies, which happen at different times throughout the year depending on the tribe, and because of a death in the family."

Related/Prior Legislation

SB 14 (Portantino, 2021), among other things, adds "for the benefit of the behavioral health of the pupil" to the list of categories of excused absences for AB 516 Page 5 purposes of school attendance. SB 14 is pending on the Assembly Floor.

SB 849 (Portantino, 2020) would have specifically added "for the benefit of the mental or behavioral health of the pupil" to the list of categories of excused absences for purposes of school attendance. SB 849 was not heard in this committee due to the shortened legislative calendar.

AB 3292 (Megan Dahle, 2020) was substantially similar to this bill and was not heard in the Assembly Education Committee.

AB 1849 (Low, 2020) would have required that a pupil be excused from school for the benefit of the mental or behavioral health of the pupil. AB 1849 was not heard in the Assembly Education Committee.

AB 1838 (Chu, 2020) would have included an absence that is due to the behavioral health of the pupil as another type of excused absence. AB 1838 was not heard in the Assembly Education Committee.

AB 1248 (Gloria, Chapter 804, Statutes of 2018) was similar to AB 233 below and authorized a student to wear tribal regalia or recognized objects of religious or cultural significance as an adornment at school graduation ceremonies.

AB 233 (Gloria, 2017) would have specified that a pupil has the right to wear religious, ceremonial, or cultural adornments at school graduation ceremonies. AB 233 was vetoed by Governor Brown with the following message:

This bill provides that a student has the right to wear specific adornments at school graduation ceremonies.

> Students in California have a well-established right to express their views through symbolic acts under the state Education Code and the Free Speech Clause of the First Amendment. See Tinker v. Des Moines Independent Community School Dist. (1969) 393 U.S. 503, 506. Under these precedents, student expression is clearly protected.
>
> To the extent that there is a dispute about what a student can wear at school graduation ceremonies, I believe those closest to the problem -- principals and democratically elected school boards -- are in the best position to make wise judgments.

AB 1593 (Obernolte, Chapter 92, Statutes of 2016) added a pupil's attendance at his or her naturalization ceremony to become a United States citizen to the list of excused absences.

SB 1457 (Morrell, 2016) would have expanded the authority of school districts to authorize a student to be excused from school to receive moral and religious instruction by authorizing a local governing board to adopt a policy, as specified, to allow pupils to earn up to two elective credits towards high school graduation requirements for the completion of "released time instruction," excluding any cap on the number of excused absences for this purpose, and would have authorized a school district to generate average daily attendance for these absences. SB 1457 was not heard on the Senate Floor.

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

SUPPORT: (Verified 9/1/21)

Big Valley Joint Unified School District
Burney Elementary School
Butte Valley Unified School District
California Catholic Conference
California County Superintendents Educational Services Association
California Federation of Teachers
California School Boards Association
Fall River Elementary
Junior League of San Diego
Lassen County Office of Education
Modoc County Office of Education
Nevada County Superintendent of Schools
Redding Rancheria
Resources for Indian Student Education, INC.

Shasta County Office of Education
Siskiyou County Office of Education
Small School Districts Association
Susanville School District
Weed Union Elementary School District

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: Brandon Darnell / ED. / (916) 651-4105
9/7/21 18:41:33

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

SENATE RULES COMMITTEE AB 670
Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 670
Author: Calderon (D)
Amended: 9/7/21 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/22/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE JUDICIARY COMMITTEE: 11-0, 7/6/21
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: 76-0, 5/27/21 - See last page for vote

SUBJECT: Child abuse or neglect: minor and nonminor dependent parents

SOURCE: Author

DIGEST: This bill provides additional support and protections to parents under the jurisdiction of the juvenile court.

Senate Floor Amendments of 9/7/21 provide double-jointing language resolving the conflict arising from AB 788 (Calderon) and AB 670 addressing the same code sections.

ANALYSIS:

Existing law:

1) Provides that a child may become a dependent of the juvenile court and be removed from the control of their parent or guardian on the basis of abuse or neglect. *(WIC 300)*

2) Authorizes the court to retain jurisdiction over a dependent who becomes a nonminor between the ages of 18 and 21 *(WIC 303(a))*, or, if the court terminates jurisdiction over a nonminor, the nonminor may petition the court for reinstatement of jurisdiction *(WIC 388(e))*. Establishes certain eligibility criteria for nonminor dependents. *(WIC 11400(v), 11403(a), (b))*

3) Declares the intent of the Legislature to maintain the continuity of the family unit and to support and preserve families headed by minor parents and nonminor dependent parents who are themselves under the jurisdiction of the juvenile court by ensuring that minor parents and nonminor dependent parents and their children are placed together in as family-like a setting as possible, unless it has been determined that placement together poses a risk to the child. *(WIC 16002.5)*

4) Establishes, under the Child Abuse and Neglect Reporting Act, procedures for the reporting and investigation of suspected child abuse or neglect. Requires certain professionals, including specified health practitioners and social workers, known as "mandated reporters," to report known or suspected child abuse or neglect to a local law enforcement agency or a county welfare or probation department, as specified. Requires, in certain circumstances, a copy of a report made pursuant to these provisions to be sent to the attorney who represents the child who is the subject of the report in dependency court. *(PEN 11166.1)*

5) Requires, whenever a child is removed from a parent's or guardian's custody, that the juvenile court order the social worker to provide child welfare services to the child and the child's mother and statutorily presumed father or guardians. *(WIC 361.5(a))*

6) Enumerates several exceptions to the reunification services requirement *(WIC 361.5(b))*, including when court finds, by clear and convincing evidence, that, among other things, the court ordered termination of reunifications services for, or severed the parental rights of the parent over, any sibling or half sibling of the child, and, that the same parent has not subsequently made a reasonable effort to treat the problems that led to the removal of the sibling or half sibling. *(WIC 361.5(b)(10), (11))* However, these provisions do not apply to minor parents under the jurisdiction of the juvenile court unless an independent basis for denying reunification applies. A party seeking involuntary foster care placement of, or termination of parental rights over, a child born to a parent or

parents who were minors at the time of the child's birth must demonstrate to the court that reasonable efforts were made to provide remedial services to prevent removal of the child, and that these efforts proved unsuccessful. *(WIC 361(b))*

This bill:

1) Requires, when a report alleging abuse or neglect of the child of a dependent of the juvenile court is made, the agency that received the report to notify the dependent youth or nonminor dependent's dependency counsel within 36 hours of the report.

2) Provides that the provisions governing denial of reunification based on a sibling or half sibling of the child does not apply if the only times the court ordered termination of reunification services or severed parental rights occurred while the parent was under the jurisdiction of the juvenile court.

3) Extends to nonminor dependents the provisions described above that require reasonable but unsuccessful efforts to be made to provide remedial services as a prerequisite removal of the child or termination of parental rights.

4) Requires a social worker or probation officer to use a strengths-based approach to supporting a minor or nonminor dependent parent in providing a safe and permanent home for their child, including when the social worker or probation officer is conducting an investigation.

5) Prohibits an investigation from being conducted for the child of a minor parent or nonminor dependent parent unless a report has been made pursuant to the Child Abuse and Neglect Reporting Act.

Comments

According to the author, "parenting foster youth struggle to access basic supports needed for them and their children to thrive, such as stable and nurturing housing, tangible resources, childcare, or positive and supportive relationships. Assembly Bill 670 will strengthen families and disrupt intergenerational involvement in the child welfare system by providing important protections for parenting foster youth."

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.

Extended Foster Care. The intent of extended foster care is to bridge the gap between the intensive supervision of foster care and unsupervised adulthood by maintaining a safety net of support while providing the youth independence and additional educational or work opportunities. It was prompted by the recognition that many youth were unable to successfully transition from foster care or group care to adulthood without additional guidance and assistance.

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) enabled states to expand the definition of a foster "child," by creating extended care for youth up to age 21. The federal law allows foster youth to remain in care past age 18 if they meet one of the following participation criteria: enrolled in high school or a high school equivalency credential; enrolled in college, community college, or vocational education; employed for at least 80 hours a month; participating in other qualifying activities or programs designed to remove barriers to employment; or medically exempt from meeting any of the other participation criteria. In 2010, California enacted AB 12 (Beall, Chapter 559, Statutes of 2010), which permits foster youth to remain in extended foster care until age 21, under the same criteria as the federal statute.

Youth participation in the program has exceeded initial expectations. Between July 2010 and July 2014, the number of youth age 18-20 in extended foster care in California increased by 211 percent, from 2,908 to 9,032, according to data compiled by UC Berkeley. As of January 1, 2020, there were an estimated 7,396 youth participating in extended foster care in California.

Dependency Court Process. The juvenile dependency court holds legal jurisdiction over a foster child or non-minor dependent (NMD). The juvenile dependency court is responsible for determining whether a child is safe and for making decisions about the care and control of the child. The court also orders the provision of services to the child and biological parents through a variety of court hearings. At a dispositional hearing the judge decides: where and with whom the child should live (including whether the child can return home or be removed from their parent's custody); when, where, and how visitation between the child and their parent

occurs; what services the child needs to be safe and healthy; and what services the parent needs in order to be reunified with their child.

Reunification Services. When a child enters the CWS system, parents are generally provided services in order to safely reunify with their children due to the goal of the dependency system being, whenever possible, to reunite children with their families. These services are time limited, and the length of time for which services are provided depends on the child's age at the time of removal. Reunification services are typically offered for six to 12 months with the ability to extend services to 18 or 24 months. These services are generally geared towards addressing the circumstances that caused the child to be removed from the parents in the first place, such as drug or alcohol treatment, anger management, counseling and other mental health services, parenting classes, or other services that would allow the child to be safely returned to the home.

Additionally, reunification services often include services and case planning to assist with reunification, such as mental health treatment for the child and parents, and visitation between the parent and child. As parents make progress on their treatment and move towards the goal of reunification, visitation may become more frequent and extend to overnight or weekend visits. In some circumstances, it is determined that there will be no safe way to reunify the child with a parent or guardian. In these instances, existing law allows the court to not provide reunification services at all, and parental rights are terminated without the opportunity for reunification. For more information on reunification services please see the Senate Human Services Committee Analysis of this bill.

Pregnant and Parenting Foster Youth. A December 2019 report by the John Burton Advocates for Youth found that, despite teen pregnancy rates in the United States dropping over the last three decades to a low of 43 pregnancy per 1,000 females, foster youth continue to experience heightened rates of unplanned pregnancy and other inequitable sexual health outcomes compared to their peers. California is one of the states with the most significant reductions in teen pregnancies since the 1990s, with a decline of 80 percent, and yet young women who have aged out of foster care remain more than twice as likely to have experienced teen pregnancy as their peers not in care. Additionally the report found that over 40 percent of teenage youth in the California foster care system who had a pregnancy experienced a miscarriage compared to 14.3 percent of teens who had a pregnancy nationwide. These disparate outcomes are not just limited to pregnancy, as the report also found that by age 26, 44 percent of women who aged out of care reported getting a diagnosis of a sexually transmitted disease compared to 23 percent of their peers not in care. Furthermore, the study notes that aspects of

these youths' experiences in the CWS system, such as placement instability, lack of stable social supports, and frequent school changes experienced by foster youth, often act as barriers to education and opportunities for youth to access accurate information related to their sexual and reproductive health.

In response to the high rates of pregnant and parenting foster youth in the state, and the barriers faced by these youth, California has adopted several pieces of legislation aimed to address the needs of young parents in the CWS system, including:

- AB 1371 (Stone, Chapter 666, Statutes of 2017) which affirmed and expanded the rights of minors, NMDs and wards of the court who are parents to consult with legal counsel prior to their children being removed from their custody;

- AB 260 (Lopez, Chapter 511, Statutes of 2015) which established the legislative declaration that a child shall not be considered to be at risk of abuse or neglect solely on the basis of information concerning the parent's or parents' placement history, past behaviors, or health or mental health diagnoses occurring prior to the pregnancy, and, further, prohibited that history from being used in deciding a child's placement, unless the court deems it materially relevant; and,

- AB 2483 (Bass, Chapter 132, Statutes of 2008) which prohibited, if a child's parent is a dependent of the juvenile court and if an attorney has been appointed for the parent, a program of supervision from being undertaken until the dependent parent has consulted with their attorney, among other legislation.

This bill builds upon those efforts by requiring a parenting foster youth's dependency counsel receive notice within 36 hours of a report alleging abuse or neglect of the child of a dependent of the juvenile court is made. This would help further facilitate the changes made by AB 1371 by ensuring the child's dependency counsel is aware of the report and potential investigation and can thus provide legal counsel to the dependent they represent. Additionally, this bill requires the social worker or probation officer use a strengths-based approach to supporting a parenting foster youth in providing a safe and permanent home for their child, including when the social worker or probation officer is conducting an investigation. This bill also prohibits a risk or safety assessment from being conducted for the child of a parenting foster youth unless a report alleging the child has suffered abuse or neglect has been made. This builds concrete action on the declarations made in AB 260, ensuring parenting foster youth are not subject to risk or safety assessment investigations simply because of their status as parenting foster youth.

Related/Prior Legislation

AB 366 (Blanca Rubio, 2021) requires certain reports to the court to include information as to whether youth in foster care received comprehensive sexual health education and would provide additional financial assistance for pregnant foster youth, among other things.

AB 788 (Calderon, 2021) provides for a court to order reunification services for a parent of a dependent child who has a history of extensive, abusive, and chronic use of drugs or alcohol, but who has only passively resisted prior court-ordered treatment.

AB 1371 (Stone, Chapter 666, Statutes of 2017) affirmed and expanded the rights of minors, NMDs, and wards of the court who are parents to consult with legal counsel prior to their children being removed from their custody.

AB 260 (Lopez, Chapter 511, Statutes of 2015) provided additional supports and services for parenting foster youth.

SB 794 (Committee on Human Services, Chapter 425, Statutes of 2015) conformed state law with federal law in the areas of sex trafficking prevention and data collection, the state's reasonable and prudent parent standards, re-investment of savings into post-adoption and guardianship services, elimination of the option of long-term group placement for children under age 16, among other changes.

AB 2483 (Bass, Chapter 132, Statutes of 2008) specified that, if a parent is a dependent of the juvenile court at the time a social worker seeks to undertake a program of supervision for a child, and if counsel has been appointed for the minor parent, the program of supervision may not be undertaken until the minor parent has consulted with their counsel.

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

According to the Senate Appropriations Committee:

- Minor cost pressures, likely less than $20,000 (GF) annually, to local agencies to notify a parenting foster youth's attorney as prescribed. These costs are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates, but it is unlikely a local agency would submit a claim.
- Estimated costs in the range of $150,750 to $754,000 (GF) statewide, to county social services departments to provide reunification services to additional

families. This estimate is based on a caseload of 810 minors and NMDs who were parents, as of January 1, 2021, an administrative rate per case of $1,551 per month and assumes between 2% and 10% of these youth will require reunification services for six months as a result of this bill. Actual costs will depend on the number of youth served and the number of months they receive services

- Minor and absorbable costs to the courts and the Judicial Council for tasks necessary to implement these provisions

SUPPORT: (Verified 9/1/21)

Alliance for Children's Rights
California Court Appointed Special Advocate Association
Children Now
Children's Law Center of California
County Welfare Directors Association of California
Disability Rights California
National Association of Social Workers, California Chapter
Public Counsel

OPPOSITION: (Verified 9/1/21)

None received

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, 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, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Maienschein, Smith

Prepared by: Marisa Shea / HUMAN S. / (916) 651-1524
9/8/21 19:49:55

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

SENATE RULES COMMITTEE AB 680
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 680
Author: Burke (D)
Amended: 9/3/21 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/28/21
AYES: Cortese, Durazo, Laird, Newman
NOES: Ochoa Bogh

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-1, 7/12/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates
NO VOTE RECORDED: Dahle

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

ASSEMBLY FLOOR: 61-13, 6/2/21 - See last page for vote

SUBJECT: Greenhouse Gas Reduction Fund: California Jobs Plan Act of 2021

SOURCE: Author

DIGEST: This bill requires increased workforce standards on projects which utilize Greenhouse Gas Reduction Fund grants, including the payment of prevailing wage for construction projects.

Senate Floor Amendments of 9/3/21 move the date by which CARB must update Greenhouse Gas Reduction Fund funding guidelines for administering agencies from July 1, 2023 to July 1, 2025.

ANALYSIS:

Existing law:

1) Establishes the Greenhouse Gas Reduction Fund (GGRF), funded from the auction or sale of allowances by the State Air Resources Board (CARB). Prohibits money from the General Fund or other special fund from being deposited in the GGRF. (Government Code §16428.8)

2) Requires moneys appropriated from the Greenhouse Gas Reduction Fund to be used to facilitate the achievement of reductions of greenhouse gas emissions and, where applicable and feasible:

    a) Maximize economic, environmental, and public health benefits to the state.
    b) Foster job creation by promoting in-state greenhouse gas emissions reduction projects carried out by California workers and businesses.
    c) Complement efforts to improve air quality.
    d) Direct investment toward the most disadvantaged communities and households in the state.
    e) Provide opportunities for businesses, public agencies, Native American tribes in the state, nonprofits, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.
    f) Lessen the impacts and effects of climate change on the state's communities, economy and environment.

3) Requires that the investment plan submitted to the Legislature by the Department of Finance every 3 years allocate at least 25% of the available funds go towards projects within disadvantaged communities. Further requires that 5% of the funds go towards projects that benefit disadvantaged individuals anywhere in the state, with a further 5% going towards projects that are located within a half mile of a disadvantaged community or that benefit disadvantaged individuals living within half a mile of a disadvantaged community.(Health and Safety Code §39713 (a-c))

4) Defines "Low-Income household" to mean a household with income at or below 80% of the statewide median income or that falls below the Department of Housing and Community Development's (DHCD) designated threshold. (Health and Safety Code §39713 (d))

5) Defines "Low-Income community" to mean census tracts with median household incomes at or below 80% of the state median income or with a

median income that falls below the DHCD designated threshold.(Health and Safety Code §39713 (d))

This bill:

1) Requires, by July 1, 2025, that the Labor and Workforce Development Agency (LWDA) work with the State Air Resources Board (CARB) to update funding guidelines to administering agencies to ensure that all applicants to Greenhouse Gas Reduction Fund meet all the following standards:

    a) Fair and responsible employer standards, meaning documented compliance with applicable labor laws and labor related commitments concerning wages, workplace safety, rights to association and assembly, and nondiscrimination standards.
    b) Inclusive procurement policies, meaning applicant procurement policies that prioritize bids from entities that demonstrate the creation of high-quality jobs or the creation of jobs in disadvantaged, tribal, and low-income communities, or both.
    c) Prevailing wage for any construction work funded in part or in full by the grant.

2) Requires, by July 1, 2023 and following the adoption of the updates listed above, that the following additional requirements apply:

    a) Applicants seeking over $1 million in funding for construction projects must provide evidence of a community workforce agreement.

    b) Administering agencies must give preference to applicants that demonstrate a partnership with an educational institution or training program targeting residents of a disadvantaged, tribal, or low-income communities in the same region as the proposed project.

    c) Administering agencies must give preference to applicants that demonstrate that jobs created through the proposed project will be high-quality jobs.

    d) Administering agencies must work with the LWDA to provide applicants with assistance if the applicant submits information that does not meet the standards of this section.

3) Exempts housing projects that feature 100% affordable units from the requirements of this bill.

   a) Defines “Affordable Unit” to mean a unit that is subject to a recorded affordability restriction for 55 years and is either a rental unit dedicated to persons and families of low income or an owner-occupied unit dedicated to persons and families of moderate income.

4) Exempts projects that involve federal funding, technical assistance and research from the requirements of this bill.

5) Exempts applicants who are not employers from the requirements of this bill.

6) Requires applicants to be responsible for ensuring that any contractors employed on a project are paid in accordance with the requirements of this bill.

7) Defines “Access” to mean that an individual who lives in a disadvantaged or low-income community could reasonably choose to utilize all services and resources needed to compete for a job, including overcoming barriers to employment or attaining a high-quality job.

8) Defines “Community Workforce Agreement” to mean a project labor agreement that includes a targeted hire plan.

9) Defines “Contractor” to mean any person who renders service for a specified recompense for a specified result, under the control of his principal as to the result of their work and not as to the means by which such result is accomplished.

10) Defines “Disadvantaged, tribal and low-income communities” to mean communities identified in Health and Safety Code §39713 or members of a Native American tribe.

11) Defines “High-quality job” to mean a job that facilitates economic mobility by providing retirement benefits, vacation and sick leave, training opportunities, and wages at or above the average median wage of a region.

   a) Defines “Retirement Benefits” to mean an employer-provided retirement plan that is partially or fully paid for by the employer
   b) Defines “Prevailing Wage” to mean the basic hourly rate paid on public works projects to a majority of workers engaged in a particular craft or type of work in the nearest labor market area.

12) Defines “Procurement” to mean a process by which an entity solicits competitive bids for a project or service.

13) Defines "Project Labor Agreement" to mean a pre-hire collective bargaining agreement that includes the following provisions:

    a) Prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization.
    b) Permits all qualified contractors and subcontractors to bid for and be awarded work on the project regardless of being part of a collective bargaining agreement.
    c) Contains an agreed-upon protocol concerning drug testing for workers
    d) Contains guarantees against work stoppages, strikes, lockouts and similar disruptions of the project.
    e) Provides that disputes arising from the agreement shall be resolved by a neutral arbitrator.

14) Defines "Targeted Hiring Plan" to mean a strategy from an applicant for GGRF funds to demonstrate how they will create jobs for disadvantaged, tribal, and low-income communities, and how the applicant will ensure access to those jobs.

Comments

Housing Shortage and Workforce Requirements. It is difficult to overstate the breadth, scale and overall complexity of the housing crisis facing California. An estimated 150,000 Californians are homeless, relying on sparse shelters or otherwise forced to live on the streets. Another 7.1 millions Californians live in poverty when housing costs are taken into account, with 56% spending over half of their income on housing alone. The explosion of housing prices driving even middle-class and upper middle-class families to rent rather than buy a house further exacerbates these two problems.

More recently, there has been a push among unionized labor in the state to increase workforce standards across the board, with a special focus on construction projects. More and more bills have placed so-called "skilled and trained" workforce requirements for new construction projects, especially those that receive public dollars. These skilled and trained requirements mandate a certain percentage of workers meet certain training standards, usually a program that lasts 3-5 years and involves several weeks of in-classroom learning. The state-approved apprenticeship programs are about 90% union run, meaning that there is an extremely high likelihood that a graduate will be a union member. The graduation rate for these programs is approximately 42% and the Division of Apprenticeship Standards reports that nearly 67,000 people have graduated since 2010.

This push for increased training requirements comes as California is facing a labor shortage in the residential construction industry. A report by the State Building and Construction Trades Council in early 2019 predicted that meeting housing demands would require between 257,000 and 349,000, which would require doubling or tripling the 2017 residential construction workforce of 114,000. Opponents of this move argue that addressing the housing crisis requires rapidly expanding the workforce, and that onerous training requirements will only lengthen the labor shortage and drive housing costs up.

Opponents may well be right; however there are a few other factors to consider when approaching this problem. While it seems logical that housing costs would increase with higher wages, it may not be this simple. Better trained workers are more productive, less likely to make mistakes and less likely to suffer from on-the-job injuries; all of these qualities are important to keeping overall costs of a project down and keeping the project on schedule. Moreover, the debate about how to increase the amount of affordable housing in the state cannot just be a cost-reduction discussion; growing the residential construction workforce will require actual incentives. CalMatters found that nearly half of the state's construction workers rely on safety net programs, at a cost to the state of approximately $3 billion a year and the Building and Construction Trades study mentioned above found that wage gap between residential and non-residential construction jobs can exceed 40%. Higher wages could provide more of an incentive for workers to join the residential construction industry and drive up participation in apprenticeship programs.

One final thing to consider is that the current union density within the residential construction industry. Currently about 7% of workers in this specific industry are unionized, with the trend of declining union membership following the nationwide decline of unions. One would think that if union wages increase housing costs that during a period of declining union membership housing costs would go down. There are obvious conflating variables, including the favorite target CEQA, but the fact remains that even with a historic low union membership housing costs are higher than ever. It may be worth considering changing tactics to address the incentive side of the housing production equation, rather than cost-reduction.

AB 680 within this Framework. With all of this in mind, the committee now considers AB 680, which would require increased workforce standards for applicants for Greenhouse Gas Reduction Fund grants, including the payment of prevailing wage for construction projects that utilize grant funds. The GGRF was set up with the purpose of reducing greenhouse gas emissions while also funding programs that benefit communities most hurt by poor environmental quality; AB

680 seems to expand naturally on the overall stated goals of the GGRF, by prioritizing projects that would create high-quality jobs for California workers.

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

According to the Senate Appropriations Committee, "The California Workforce Development Board (CWDB) indicates that the bill's LWDA-related workload would be delegated to it instead. CWDB would incur annual staffing costs of $160,000 to work with ARB to update the funding guidelines for administering agencies to ensure that all applicants for grant programs funded by GGRF meet specified standards, including fair and responsible employer standards and inclusive procurement policies (Greenhouse Gas Reduction Fund). The bill would result in annual costs to ARB of $390,000 to update funding guidelines in collaboration with LWDA and revise internal systems to track and report compliance with new labor and procurement standards (Greenhouse Gas Reduction Fund)."

SUPPORT: (Verified 9/5/21)

California State Association of Electrical Workers
California State Council of Laborers
California State Pipe Trades Council
Elders Climate Action, NorCal and SoCal Chapters
Northern California Recycling Association
Northern California Recycling Association Western States Council Sheet Metal, Air, Rail and Transportation
State Building and Construction Trades Council of California
U.S. Green Building Council - Los Angeles
Western States Council Sheet Metal, Air, Rail and Transportation

OPPOSITION: (Verified 9/5/21)

Merritt Community Capital Corporation
Santa Clara County Housing Authority
Western Electrical Contractors Association

ARGUMENTS IN SUPPORT: The Northern California Recycling Association writes in support:

> California has been a global leader in combating climate change. While progress is laudable, its outcomes have been inconsistent, and a great deal of evidence shows wealthy communities benefit the most from the state's climate investments. According to a report published last June

by UCLA's California Center for Sustainable Communities, affluent communities have a far greater ability to access existing programs and incentives. A separate report published in the Transportation Research Record evaluating the Clean Vehicle Rebate Project concluded that 83% of rebate recipients had annual incomes of $100,000 or more.

Additionally, despite numerous statutory requirements to maximize the socioeconomic benefits of our climate investments, the State Auditor, just last month, released a report detailing the Air Resources Board's limited collection and analysis of data regarding job creation and benefit outcomes. The California Workforce Development Board's recently published report "Putting California on the High Road: A Jobs and Climate Action Plan for 2030" documents the potential for jobs of the carbon neutral economy to be low-wage with limited upward advancement, a finding supported by the State Building and Construction Trades Council report titled "Would Green Jobs Offset Those Lost from a Phase-Out of Oil and Gas Production.

AB 680 addresses these shortcomings by requiring grant applicants for GGRF funding to document high-quality job creation in disadvantaged and low-income communities while prioritizing applications that demonstrate partnerships with local educational institutions and training partnerships that target residents of marginalized communities.

ARGUMENTS IN OPPOSITION: Merritt Community Capital Corporation writes in opposition:

California's severe housing and homelessness crises have only been exacerbated by COVID-19: The state continues to face a shortfall of at least 1.2 million homes affordable to its lowest-income households, and more than 161,000 Californians are experiencing homelessness. AHSC and LIWP, both funded through the Greenhouse Gas Reduction Fund, are critical to closing this affordable housing gap while also furthering many of the state's top policy goals—including mitigating climate change, creating better-connected communities, and reinvesting in disadvantaged communities that have historically been excluded from community-serving investments.

We are committed to building desperately needed housing to struggling families, seniors, low-wage workers, and veterans—while also providing higher wages and steady jobs to construction workers across the state. This can be done by applying reasonable workforce

requirements to *new* sources of funding that will increase the production of affordable homes. Unfortunately, by severely handicapping *existing* programs, AB 680 will decrease affordable housing production and divest resources from Disadvantaged Communities.

ASSEMBLY FLOOR: 61-13, 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, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mathis, McCarty, Medina, 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: Choi, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Bigelow, Flora, Lorena Gonzalez, Mayes, Mullin

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
9/7/21 17:40:12

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

SENATE RULES COMMITTEE AB 716
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 716
Author: Bennett (D)
Amended: 9/3/21 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 7/13/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Skinner, Stern
NO VOTE RECORDED: Wieckowski

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

ASSEMBLY FLOOR: 72-0, 5/27/21 - See last page for vote

SUBJECT: Court access

SOURCE: Author

DIGEST: This bill (1) establishes that, when courts are generally open to the public, the right of public access is not satisfied with a remote option—in-person access is mandatory absent a legal reason for closing a proceeding or courthouse, and any remote option may be provided in addition to, not instead of, in-person access; (2) provides that, in the rare case where the law or emergency conditions require access to a courthouse to be closed to the public, courts must provide, at a minimum, an audio or telephonic public access option; and (3) clarifies that the availability of a remote option does not alter the existing restrictions on who may produce an official transcript of the proceedings, to ensure that unnecessary doubt is not introduced into proceedings with unofficial transcripts gleaned from an audio or audiovisual feed.

Senate Floor Amendments of 9/3/21 add a definition of "remote access" to make clear that it includes audio means of access, in addition to audiovisual means of access; and remove the subdivision relating to the creation of the official record.

ANALYSIS:

Existing law:

1) Provides that, in all criminal prosecutions, the accused shall have a right to a speedy and public trial. (U.S. Const., 6th amend.; Cal. Const., art. I, § 6.)

2) Provides that, consistent with the constitutional prohibition on abridging the freedom of the press, substantive court proceedings generally must be open to the public and members of the press. (*Richmond Newspapers v. Virginia* (1980) 448 U.S. 555, 573-574; *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, 1181-1182.)

3) Requires that every sitting of the court shall be public, except where otherwise provided by law. (Code Civ. Proc., § 124.)

4) Authorizes narrow exceptions to the public trial requirement, including:
   a) In a proceeding under the Family Code, a court may, when it considers it necessary in the interests of justice and the persons involved, direct the trial to be private and exclude all persons except those participating in the trial. (Fam. Code, § 214.)
   b) In certain actions under the Uniform Parentage Act, the court may hold a hearing or trial in closed court. (Fam. Code, § 7643.)
   c) In a juvenile court hearing, the public shall not be admitted unless requested by the minor concerning whom the petition has been filed or unless the hearing concerns a minor alleged to have committed specified criminal acts. (Welf. & Inst. Code, § 676.)
   d) In a proceeding to have a person involuntarily committed by the court, proceedings are presumptively private unless any party otherwise requests that the hearing be public. (Welf. & Inst. Code, § 5118.)
   e) In any other proceeding, a trial court may close a proceeding if it (1) provides adequate notice to the public of the contemplated closure, and (2) before closing the proceeding, holds a hearing and expressly finds all of the following:
      i) there exists an overriding interest supporting closure;
      ii) there is a substantial probability that the interest will be prejudiced absent closure;
      iii) the proposed closure is narrowly tailored to serve the overriding interest; and

iv) there is no less restrictive means of achieving the overriding interest. (*NBC Subsidiary*, *supra*, 20 Cal.4th at pp. 1217-1218.)

This bill:

1) Prohibits a court from excluding the public from physical access because remote access is available, unless it is necessary to restrict or limit physical access to protect the health and safety of the public or court personnel.

2) Provides that, except as provided in Family Code section 214 or other existing law, if a courthouse is physically closed to the extent permitted by law, the court must provide, at a minimum, a public audio stream or other means by which to listen to the proceedings.

3) Clarifies that, for purposes of 2), "remote access" includes, but is not limited to, audio means of listening to a court proceeding.

Comments

During the COVID-19 pandemic, many courts moved to partial or fully remote proceedings. Due to the hurried (and harried) nature of this move, some courts' initial remote proceedings did not provide for adequate public access to the courts, in violation of constitutional and statutory protections. This bill is intended to protect the public's right to access court proceedings in both ordinary and extraordinary times. First, the bill clarifies that, when courts are generally open to the public, the right of public access is not satisfied with a remote option—in-person access is mandatory absent a legal reason for closing a proceeding or courthouse, and any remote option may be provided in addition to, not instead of, in-person access. Second, this bill provides that, in the rare case where the law requires access to a courthouse to be closed, courts must provide, at a minimum, an audio or telephonic public access option, to preserve the public right of access to the courts. The amendments of 9/3/21 clarify that "remote access," for purposes of the court's provision of a remote option, can include, but is not limited to, an audio-only means of listening to the proceedings.

The amendments of September 3, 2021, also remove subdivision (c) of this bill, which addressed the creation of the official record by a court reporter in circumstances where the court provides a public remote means of observing a proceeding. After discussions with stakeholders, the author concluded that existing statutes regarding when and how an official court transcript may be produced, such as Code of Civil Procedure Sections 269 and 273, and Government Code Section 69941, provide adequate protections against so-called "transcripts" created from a

remote public feed. In light of the amendments removing subdivision (c), Judicial Council, the Consumer Attorneys of California, California Defense Counsel, and the California Judges Association have withdrawn their opposition to the bill, and SEIU California has withdrawn its support.

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

According to the Senate Appropriations Committee, this bill presents unknown, potentially major costs to the courts to ensure every proceeding is accessible remotely when the courthouse is physically closed as required by this bill. The Judicial Council indicates additional costs to update courthouse infrastructure and increase staffing to provide remote access is estimated to be approximately $65 million. While the courts have invested in remote access technology because of the COVID-19 pandemic, it is unclear to what extent additional investments and staffing would be needed on an ongoing basis. These expenses would be paid out of the courts' operational funds, which 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.

SUPPORT: (Verified 9/7/21)

ACLU of California
California News Publishers Association
Disability Rights California
Greater Oxnard Organization of Democrats
Public Justice

OPPOSITION: (Verified 9/7/21)

California Court Reporters Association

ARGUMENTS IN SUPPORT: According to bill supporter, ACLU of California, "It is a cornerstone principle of democracy, and of constitutional law, that public business be conducted in public in order for the public to observe and participate in the government—and to correct governmental behavior if necessary. While the recent pandemic has strained some governmental processes, the inconvenience or expense of preserving public access cannot be justification to abandon this principle."

ARGUMENTS IN OPPOSITION: According to bill opponent, California Court Reporters Association (CCRA), "CCRA understands the author's intent in AB 716,

to maintain the openness of court proceedings and allow for greater public access. While we do not disagree with these goals, we believe that proper guardrails should be put in place to ensure that physical access is not denied to critical individuals. CCRA believes that amendments should be taken to ensure that the bill is not construed to deny access to a party, counsel, witness, court employee, or court contractor if remote access is available. The author should also clarify that individuals granted remote acess through this bill should not be allowed to record court proceedings."

ASSEMBLY FLOOR: 72-0, 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, 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, Kiley, Maienschein, Patterson, Seyarto, Smith

Prepared by: Allison Meredith / JUD. / (916) 651-4113
9/7/21 17:36:46

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

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

THIRD READING

Bill No: AB 873
Author: Ramos (D)
Amended: 9/3/21 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/22/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE JUDICIARY COMMITTEE: 11-0, 7/6/21
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: 76-0, 5/20/21 (Consent) - See last page for vote

SUBJECT: Child welfare services: Indian tribes

SOURCE: Author

DIGEST: This bill eliminates tribal share of cost requirements for an agreement entered into by the California Department of Social Services (CDSS) with a tribe, tribal consortium, or tribal organization regarding care and custody of Indian children and jurisdiction over Indian child custody proceedings and strikes existing law related to the breakdown of the tribal share of costs, as provided.

Senate Floor Amendments of 9/3/21 clarify when CDSS shall enter such an agreement with a tribe, funding responsibility for a child under Title IV-E funded tribal foster care, and remove the requirement that CDSS create a specialized unit within the department to assist Indian tribes, tribal organizations, and tribal consortia in implementing Title IV-E agreements.

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 have been abused or neglected, as specified. *(WIC 202)*

2) Clarifies the purpose of provisions regarding dependent children as to provide the maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, neglected, or exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of harm. *(WIC 300.2)*

3) Provides Legislative intent to preserve and strengthen a child's family ties whenever possible and to reunify a foster youth with their biological family whenever possible, or to provide a permanent placement alternative. *(WIC 16000)*

4) Establishes the Indian Child Welfare Act (ICWA), which provides guidance to states regarding the jurisdiction requirements, proceedings of tribal courts, and custody proceedings involving the removal of Indian children from their parent's custody. *(25 United State Code (U.S.C.) 1901 et seq.)*

5) Establishes federal regulations for the implementation of ICWA. *(25 Code of Federal Regulations 23)*

6) States the commitment of California to protecting the essential tribal relations and best interest of an Indian child by promoting practices in accordance with federal law, as specified. *(WIC 224(a))*

7) Requires the court, in all Indian child custody proceedings as defined by ICWA, to strive to promote the stability and security of Indian tribes and families, comply with ICWA, and seek to protect the best interest of the child. Further requires, whenever an Indian child is removed from a foster care home or institution, guardianship, or adoptive placement for the purposes of foster care, guardianship, or adoptive placement, the placement of the child to be in accordance with ICWA. *(WC 224(b))*

8) Allows CDSS to enter into an agreement with any California Indian tribe or any out-of-state Indian tribe that has reservation lands that extend into

California, consortium of tribes, or tribal organization regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, as provided. *(WIC 10553.1(a))*

9) Allows CDSS to enter into an agreement with any Indian tribe, as provided in 8) above, delegating the care and custody of Indian children that would otherwise be the responsibility of the county for the provision or child welfare services or assistance payments under the Aid for Dependent Child-Foster Care (AFDC-FC), or both. *(WIC 10553.1(b)(1))*

10) Requires, in regards to agreements entered into CDSS with any Indian tribe, as provided in 8) above, relating to delegating the care and custody of Indian children to meet set requirements, as provided. *(WIC 10553.1(b)(2)-(4))*

11) Removes county responsibility for children receiving child welfare services or AFDC-FC payments through a tribal agreement, as described above, upon the implementation date of the authorized agreement. Further provides that the implementation of a tribal agreement does not impose liability upon, or require indemnification by, the participating county or state for any act or omission performed by an officer, agent or employee of the participating tribe. *(WIC 10553.1(c),(g))*

12) Requires the tribe, consortium of tribes, or tribal organization to comply with fiscal reporting requirements specified by CDSS for federal and state reimbursement child welfare or AFCD-FC services for programs operated under a tribal agreement. *(WIC 10533.1(d))*

13) Deems an Indian tribe, consortium of tribes, or tribal organization that is a party to a child welfare agreement with CDSS as eligible to receive allocations of child welfare services funds that are available for expenditure by the tribe. *(WIC 10533.1(e)-(d))*

14) Requires CDSS to negotiate in good faith with the Indian tribe, organization, or consortium in the state that requests development of an agreement with the state to administer all or part of the programs under the child welfare services system, under Title IV-E of the Social Security Act or 42 U.S.C. Sec 671 et seq., on behalf of Indian children who are under the authority of the tribe, organization, or consortium. *(WIC 16000.6)*

This bill:

1) Eliminates tribal share of cost requirements for an agreement entered into by CDSS with a tribe, tribal consortium, or tribal organization, upon the tribe's request, regarding care and custody of Indian children and jurisdiction over Indian child custody proceedings, as provided, and strikes existing law related to the breakdown of the tribal share of costs.

2) Strikes existing law that requires the tribe, tribal consortium, or tribal organization to bear responsibility for what would otherwise be the responsibility of the county for the provision of child welfare services or assistance payments under the AFDC-FC program, or both.

3) Requires a tribe, tribal organization, or tribal consortium to claim and use all eligible funding available under Title IV-E of the federal Social Security Act regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings.

4) Requires the nonfederal costs pursuant to an agreement entered under 1) above to be borne by the state, unless an Indian child is transferred from the jurisdiction of the tribe to the jurisdiction of the county, in which case nonfederal costs for the child shall be borne by the county as they would be for any other child under the county's jurisdiction.

Comments

According to the author, "AB 873 will bring state law into compliance with the federal mandate requiring states to negotiate Title IV-E agreements with Tribes. This will allow the drawing down additional federal funds to address the systemic inequities plaguing child welfare system. AB 873 also seeks to eliminate the tribal share of cost because (1) having tribe's implement Title IV-E would be a fiscal benefit to the State, and (2) it operates as a significant barrier to tribal implementation of Title IV-E."

Child Welfare Services (CWS). California's child welfare services (CWS) system is an essential component of the state's safety net. Abused and neglected children who have been removed from their homes fall under the jurisdiction of the county's juvenile dependency court, 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. 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.

Aid to Families with Dependent Children-Foster Care (AFDC-FC). Foster care payments for eligible youth are provided through either state or federal AFDC-FC. In order to be eligible for federal AFDC-FC, the home from which the child was removed must meet AFDC eligibility criteria as established in 1996 for the month in which a dependency petition is filed with the juvenile court, or in any of the six months prior to the month in which the petition is filed. In 1996, the income limit for a family of three to qualify for AFDC was $723. Eligibility for federal AFDC-FC is determined at the time a child is removed from their parent's custody and eligibility not re-determined once the youth is in foster care. Due to many youth not meeting the 1996 eligibility criteria for federal AFDC-FC, California created state AFDC-FC, which provides funding to foster children who are placed with non-relative foster parents. According to CDSS's internet website, state AFDC-FC payments are a blend of state and county funds, while federal AFDC-FC payments are a blend of federal, state, and county funds. Whether a youth is eligible for certain services or supports is not tied to whether the youth qualifies for state or federal AFDC-FC, the only thing that differs is the funding source.

Under current law, if a child is in a tribal foster care placement and the Indian tribe has an approved agreement with CDSS to provide Title IV-E child welfare services, the tribe would be responsible for what would otherwise be the county's share of costs. Tribes receive a higher reimbursement rate from the federal government. They get 87 percent reimbursement versus 50 percent to the counties. Thus, when the tribe has an agreement with CDSS, the federal government share of cost is higher.

Indian Child Welfare Act (ICWA). 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."[1]

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 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.

Additional changes to California's implementation of ICWA were made in 2019, following the adoption of AB 3176 (Waldron, Chapter 833, Statues of 2018). AB 3176 clarified county and state actions to determine tribal exclusive jurisdiction and how to properly handle cases in which exclusive tribal jurisdiction exists, as well as, clarified notice requirements and when inquiry as to whether a child is an Indian child begins.

ICWA Compliance Task Force Report. AB 3176, and other legislative efforts, were initiated, in part, in response to a 2017 report by California's ICWA Compliance Task Force to the California Attorney General's Bureau of Child's Justice. The report noted that "there ha[d] been incremental process with sincere and innovative efforts to address concerns that tribal leaders and stakeholders had brought forward" in regards to ICWA's implementation. However, the report also found that "the promise and potential of the federal ICWA and Cal-ICWA have not been realized, as neither the letter nor the spirit of the law has been fully implemented."[2]

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[1] See *25 U.S.C. 1902*

[2] https://theacademy.sdsu.edu/wp-content/uploads/2015/06/icwa-compliance-task-force-final-report-2017.pdf

The report went on to note that the system's most critical flaw is tied to funding, or the lack there of. Under existing law, any agreement between CDSS and an Indian tribe, tribal organization, or tribal consortium located in California regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings must include certain cost sharing provisions that make the Indian tribe, consortium of tribes, or a tribal organization responsible for certain non-federal costs. These share of cost provisions are included in agreements that provide for orderly transfer of jurisdiction on a case-by-case basis, for exclusive tribal or state jurisdiction, for concurrent jurisdiction between states and tribes, and others. According to stakeholders, these share of cost requirements often prevent Indian tribes, consortiums of tribes, or a tribal organizations from entering such agreements with CDSS due to the tribes' lack of available funding to cover necessary cost sharing. This, in turn, limits the tribes' ability to access the rights and protections provided under ICWA. This bill is attempting to address, in part, the lack of funding noted in the report by removing the mandatory share of costs for Indian tribes.

Related/Prior Legislation

AB 685 (Reyes, 2019) would have required the State Bar of California to administer grants to nonprofit legal service organizations to provide support and technical assistance related to the implementation of ICWA. AB 3076 was substantially amended to remove provisions relating to the ICWA.

AB 3176 (Waldron, Chapter 833, Statutes of 2018) made a number of changes to court proceedings related to tribal children in CWS.

AB 1962 (Wood, Chapter 748, Statutes of 2018) amended the definition of foster youth for Local Control Funding Formula purposes by including a student who is in foster care under the placement and care responsibility of an Indian tribe.

SB 678 (Ducheny, Chapter 838, Statutes of 2006) codified provisions of the federal ICWA in California law.

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

According to the Senate Appropriations Committee:

- CDSS states implementation of this bill would result in the following costs:
  - Tribes with existing Title IV-E agreements will not have a tribal share for administrative costs and would not be required to claim Title IV-E funding

for eligible costs. Currently, there are only 2 tribes to which this applies-$1.4 million GF per year.
  - Removes all tribal share of admin legal costs for tribes with a Title IV-E agreement-$4.7 million GF per year.
  - Creates a unit at CDSS to aid tribes in developing and implementing Title IV-E agreements-$392,500.00 GF ($785,000.00 total) and $383,500.00 GF ongoing ($767,000.00 total).
  - Allows additional tribes to enter into agreements with the state with no tribal share of costs without being required to claim IV-E funds-$258,000 GF for startup costs and $5 million ongoing.

- According to the California Tribal Families Coalition (CTFC) implementing this bill results in a significant increase Federal funds (80% vs 50%) which would offset the State costs noted above and would reduce local costs.

SUPPORT: (Verified 9/2/21)

Alliance for Children's Rights
California Tribal Business Alliance
Yocha Dehe Wintun Nation
Yurok Tribe

OPPOSITION: (Verified 9/2/21)

None received

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: Marisa Shea / HUMAN S. / (916) 651-1524
9/7/21 17:31:18

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

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

THIRD READING

Bill No: AB 900
Author: Reyes (D)
Amended: 9/1/21 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-2, 6/15/21
AYES: Umberg, Caballero, Durazo, Hertzberg, Laird, Stern, Wieckowski, Wiener
NOES: Borgeas, Jones
NO VOTE RECORDED: Gonzalez

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 54-15, 4/5/21 - See last page for vote

SUBJECT: Charitable trusts

SOURCE: Author

DIGEST: This bill requires, beginning July 1, 2022, a trustee holding assets subject to a charitable trust to give written notice to the Attorney General at least 20 days before the trustee sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all of the charitable assets.

Senate Floor Amendments of 9/1/21 add an operative date of July 1, 2022, and require the Attorney General to establish rules and regulations to administer this bill's provisions.

ANALYSIS:

Existing law:

1) Provides that the Attorney General is the chief law officer of the state with broad duties to see that the laws of the State are uniformly and adequately enforced. (Cal. Const., art. V, § 13; Gov. Code § 12510.)

2) Establishes the Supervision of Trustees and Fundraisers for Charitable Purposes Act under the supervision of the Attorney General. (Gov. Code §§ 12580-12599.8.)
   a) Provides for regulation of charitable corporations, unincorporated associations, trustees, and other legal entities holding property for charitable purposes, commercial fundraisers for charitable purposes, fundraising counsel for charitable purposes, and commercial covertures. (Gov. Code §§ 12581.)
   b) Vests the primary responsibility for supervising charitable trusts in California, for ensuring compliance with trusts and articles of incorporation, and for protection of assets held by charitable trusts and public benefit corporations, in the Attorney General, and provides that the Attorney General has broad powers under common law and California statutory law to carry out these charitable trust enforcement responsibilities. (Gov. Code § 12598(a).)

3) Requires the Attorney General to maintain a registry of charitable corporations, unincorporated associations, and trustees subject to the Act and of the particular trust or other relationship under which they hold property for charitable purposes. (Gov. Code §§ 12584.)

4) Requires, generally, every charitable corporation, unincorporated association, and trustee subject to the Act to file with the Attorney General periodic written reports, under oath, setting forth information as to the nature of the assets held for charitable purposes and the administration thereof by the corporation, unincorporated association, or trustee, in accordance with rules and regulations of the Attorney General. Requires the Attorney General to make rules and regulations as to the time for filing reports, the contents thereof, and the manner of executing and filing the reports. (Gov. Code § 12586(a), (b).) Exempts corporate trustees subject to the jurisdiction of the Commissioner of Financial Institutions of California or to the Comptroller of the Currency of the United States. (*Id.* at (a).)

5) Defines a "charitable trust" as an organization described under the federal Internal Revenue Code provision governing charitable trusts. (Prob. Code § 16100(a); 26 U.S.C. § 4947(a)(1).)

6) Provides that during any period when a trust is deemed to be a charitable trust, the trustee must distribute its income for each taxable year, and principal if

necessary, at a time and in a manner that will not subject the property of the trust to tax under the Internal Revenue Code. (§ 16101.)

7) Prohibits the trustee, during any period when a trust is deemed to be a charitable trust, from any of the following activities, as defined in the Internal Revenue Code:
   a) engaging in self-dealing;
   b) retaining any excess business holdings;
   c) making any investments in such manner as to subject the property of the trust to tax; or
   d) making any taxable expenditure. (§ 16102.)

This bill requires, beginning July 1, 2022, a trustee holding assets subject to a charitable trust to give written notice to the Attorney General at least 20 days before the trustee sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all of the charitable assets. The Attorney General must establish rules and regulations to implement these provisions.

Comments

The Supervision of Trustees and Fundraisers for Charitable Purposes Act (Gov. Code 12580 et seq.; Chapter 1258, Statutes of 1959) requires the Attorney General to oversee charitable trusts in California (Gov. Code § 12598). As the California Supreme Court noted: "Beneficiaries of a charitable trust, unlike beneficiaries of a private trust, are ordinarily indefinite and therefore unable to enforce the trust in their own behalf. Since there is usually no one willing to assume the burdens of a legal action, or who could properly represent the interests of the trust or the public, the Attorney General has been empowered to oversee charities as the representative of the public, a practice having its origin in the early common law." (*Holt v. College of Osteopathic Physicians & Surgeons* (1964) 61 Cal.2d 750, 754 [citations omitted].) The Attorney General has broad powers under common law and California statutory law to carry out these charitable trust enforcement responsibilities. (Gov. Code § 12598.)

As a general matter, charitable trusts operating in California must register with the Attorney General and file annual financial reports listing revenues and expenditures. (Gov. Code §§ 12584, 12586.) These reports are used by the Attorney General to investigate and litigate cases of charity fraud and mismanagement by trustees and directors of charities. Additionally, the Probate

Code sets forth specific duties applicable to trustees of charitable trusts, including the provision of certain notices (§ 1209 [any notice required to be given to the State of California]; § 16061.7 [key events related to revocable trusts]) and requirements relating to the management of trust assets to ensure compliance with federal tax laws, including a prohibition on self-dealing (§§ 16101 & 16102). These provisions collectively establish a statutory scheme for the regulation of charitable trusts.

This bill requires a trustee holding assets subject to a charitable trust to give written notice to the Attorney General at least 20 days before the trustee sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all of the charitable assets. This mirrors provisions applicable to nonprofit public benefit corporations and nonprofit religious corporations. (Corp. Code §§ 5913, 9633.) There, as here, the information provided in the notice enables proactive enforcement action, including legal action to halt malfeasant disposal of charitable assets.[1] This bill harmonizes these modest, longstanding transparency requirements among similarly situated entities subject to the Attorney General's oversight.

Recent amendments to make the bill operative July 1, 2022 and require the Attorney General to implement the bill by establishing rules and regulations have removed the opposition of the California Bankers Association.

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

SUPPORT: (Verified 9/2/21)

California Association of Nonprofits
California Judges Association

OPPOSITION: (Verified 9/2/21)

None received

ARGUMENTS IN SUPPORT: The author argues:

> This legislation is long overdue, and essential to ensuring that bad actors are unable to engage in self-dealing transactions. California charities should not be allowed to bypass the simple act of giving notice when making large transfers.

[1] According to the author, the Attorney General's Office has investigated several matters involving self-dealing trustees in recent years. (*See, e.g. People of the State of California v. Bishop* (Super. Ct. Napa. County, 2014) No. 26-65141 [action to remove the trustees of the Jean Schroeder Education Trust and to recover real property that was improperly sold to the trustee].)

Current California law is inconsistent, as it requires public benefit corporations to give advance notice to the Attorney General, but not charitable trusts. AB 900 will make the law consistent and equitable.

The California Association of Nonprofits writes:

Under existing California law, charitable trusts and nonprofit public benefit corporations must register with and report information to the AG. Nonprofit public benefit corporations are also required to give notice to the AG when the corporation plans to sell, lease, convey, or transfer substantially all of its assets. Existing law does not currently create a comparable notification requirement for charitable trusts.

This notification requirement allows the AG to monitor transactions for possible self-dealing. But without a comparable notification requirement for charitable trusts, donors to charitable trusts remain vulnerable to possible self-dealing by unscrupulous trustees. Donor giving is vital to the wellbeing of the nonprofit sector, and if donors lose confidence in the mechanisms of giving, nonprofits, and the communities they serve, will suffer.

The California Judges Association writes:

Far too often the Attorney General, who is charged with supervision of charitable trusts, and other interested parties find out about disposition of all or substantially all of the charitable assets of a trust well after that disposition. This lack of knowledge poses severe logistical and statute-of-limitations problems for the Attorney General.

AB 900 adds a new requirement that a trustee holding assets of a charitable trust give written notice to the Attorney General at least 20 days before the trustee sells, leases, coveys, exchanges, transfers or otherwise disposes of all or substantially all of the charitable assets. We believe this bill will help the Attorney General in their oversight of charitable trusts and will help the court in determining the statute of limitations period as well.

ASSEMBLY FLOOR: 54-15, 4/5/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bonta, 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, Medina, Muratsuchi, Nazarian, O'Donnell,

Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Seyarto, Smith, Voepel, Waldron
NO VOTE RECORDED: Cunningham, Flora, Mayes, McCarty, Mullin, Patterson, Petrie-Norris, Valladares, Wicks

Prepared by: Josh Tosney / JUD. / (916) 651-4113
9/7/21 19:54:34

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

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THIRD READING

Bill No: AB 913
Author: Smith (R)
Amended: 9/3/21 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: 76-0, 5/20/21 (Consent) - See last page for vote

SUBJECT: Collateral recovery

SOURCE: California Association of Licensed Repossessors

DIGEST: This bill makes various changes to the Collateral Recovery Act.

Senate Floor Amendments of 9/3/21 narrow the bill and update definitions.

ANALYSIS:

Existing law:

1) Establishes the Bureau of Security and Investigative Services (BSIS) within the Department of Consumer Affairs (DCA) to license and regulate repossessors under the Collateral Recovery Act. (Business and Professions Code (BPC) §§ 7500 – 7511)

2) Defines "assignment" as any written authorization by the legal owner, lienholder, lessor, lessee, registered owner, or the agent of any of them, to repossess any collateral, including, but not limited to, collateral registered under the Vehicle Code (VEH) that is subject to a security agreement that contains a repossession clause. "Assignment" also means any written

authorization by an employer to recover any collateral entrusted to an employee or former employee in possession of the collateral. (BPC § 7500.1(a))

3) Defines "collateral" as any specific vehicle, trailer, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement. (BPC § 7500.1(e))

4) Defines "debtor" as any person obligated under a security agreement. (BPC § 7500.1(i))

5) Defines "legal owner" as a person holding a security interest in any collateral that is subject to a security agreement, a lien against any collateral, or an interest in any collateral that is subject to a lease agreement. (BPC § 7500.1(n))

6) Defines "licensee" as an individual, partnership, limited liability company, or corporation licensed under this chapter as a repossession agency. (BPC § 7500.1(o))

7) Defines "repossession" as the locating or recovering of collateral by means of an assignment. (BPC § 7500.1)

8) Requires, a licensed repossessor to remove and inventory personal effects from the collateral after repossession. The inventory of the personal effects must be complete and accurate, and the personal effects must be labeled and stored by the licensee for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the debtor or the party in possession of the collateral at the time of the repossession. (BPC § 7507.9)

9) Authorizes a debtor, with the consent of the licensee, to waive the preparation and presentation of an inventory if the debtor redeems the personal effects or other personal property not covered by a security interest within the time period for the notices required by the Act and signs a statement that the debtor has received all the property. (BPC § 7507.9(h))

10) Requires a repossession agency to request written authorization from the debtor before releasing personal effects or other personal property not covered by a security agreement. (BPC § 7507.9(i))

11) Exempts a vehicle repossessed pursuant to the terms of a security agreement from registration solely for the purpose of transporting the vehicle from the point of repossession to the storage facilities of the repossessor, and from the

storage facilities to the legal owner or a licensed motor vehicle auction, provided that the repossessor transports with the vehicle the appropriate documents authorizing the repossession and makes them available to a law enforcement officer on request. (Vehicle Code (VEH) § 4022)

12) Provides that a vehicle removed and seized by a peace officer as specified shall be released to the legal owner of the vehicle or the legal owner's agent prior to the end of 30 days' impoundment if all of the following conditions are met: (VEH § 14602.6(f))

    a) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state or is another person, not the registered owner, holding a security interest in the vehicle.

    b) The following payment requirements are met:

        i) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. No lien sale processing fees shall be charged to the legal owner who redeems the vehicle prior to the 15th day of impoundment. Neither the impounding authority nor any person having possession of the vehicle shall collect from the legal owner of the type specified in paragraph (1), or the legal owner's agent any administrative charges imposed pursuant to VEH Section 22850.5 unless the legal owner voluntarily requested a poststorage hearing.

        ii) A person operating or in charge of a storage facility where vehicles are stored pursuant to this section shall accept a valid bank credit card or cash for payment of towing, storage, and related fees by a legal or registered owner or the owner's agent claiming the vehicle. A credit card shall be in the name of the person presenting the card. "Credit card" means "credit card" as defined in Civil Code (CIV) Section 1747.02(a), except, for the purposes of this section, credit card does not include a credit card issued by a retail seller.

        iii) A person operating or in charge of a storage facility described above who violates the requirements shall be civilly liable to the owner of the vehicle or to the person who tendered the fees for four times the amount of the towing, storage, and related fees, but not to exceed $500.

        iv) A person operating or in charge of a storage facility described above shall have sufficient funds on the premises of the primary storage

facility during normal business hours to accommodate, and make change in, a reasonable monetary transaction.

v) Credit charges for towing and storage services shall comply with CIV Section 1748.1. Law enforcement agencies may include the costs of providing for payment by credit when making agreements with towing companies on rates.

c) The legal owner or the legal owner's agent presents a copy of the assignment, as defined in BPC Section 7500.1(b); a release from the one responsible governmental agency, only if required by the agency; a government-issued photographic identification card; and any one of the following, as determined by the legal owner or the legal owner's agent: a certificate of repossession for the vehicle, a security agreement for the vehicle, or title, whether paper or electronic, showing proof of legal ownership for the vehicle. Any documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The law enforcement agency, impounding agency, or any other governmental agency, or any person acting on behalf of those agencies, shall not require any documents to be notarized. The law enforcement agency, impounding agency, or any person acting on behalf of those agencies may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to the Collateral Recovery Act, or to demonstrate, to the satisfaction of the law enforcement agency, impounding agency, or any person acting on behalf of those agencies, that the agent is exempt from licensure pursuant to BPC Sections 7500.2 or 7500.3.

d) No administrative costs authorized under VEH Section 22850.5(a) shall be charged to the legal owner of the type specified in paragraph (1), who redeems the vehicle unless the legal owner voluntarily requests a poststorage hearing. No city, county, city and county, or state agency shall require a legal owner or a legal owner's agent to request a poststorage hearing as a requirement for release of the vehicle to the legal owner or the legal owner's agent. The law enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, shall not require any documents other than those specified in this paragraph. The law enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, shall not require any documents to be notarized. The legal owner or the legal owner's agent shall be given a copy of any documents he or she is

required to sign, except for a vehicle evidentiary hold logbook. The law enforcement agency, impounding agency, or any person acting on behalf of those agencies, or any person in possession of the vehicle, may photocopy and retain the copies of any documents presented by the legal owner or legal owner's agent.

e) A failure by a storage facility to comply with any applicable conditions set forth in this subdivision shall not affect the right of the legal owner or the legal owner's agent to retrieve the vehicle, provided all conditions required of the legal owner or legal owner's agent under this subdivision are satisfied.

13) Provides that, when collateral is released to a licensed repossessor, licensed repossession agency, or its officers or employees, the following apply:

a) The law enforcement agency and the impounding agency, including any storage facility acting on behalf of the law enforcement agency or impounding agency, shall comply with the release requirements of VEH Section 14602.6 and shall not be liable to the registered owner for the improper release of the vehicle to the legal owner or the legal owner's agent provided the release complies with the provisions of this section. A law enforcement agency shall not refuse to issue a release to a legal owner or the agent of a legal owner on the grounds that it previously issued a release.

b) The legal owner of collateral shall, by operation of law and without requiring further action, indemnify and hold harmless a law enforcement agency, city, county, city and county, the state, a tow yard, storage facility, or an impounding yard from a claim arising out of the release of the collateral to a licensed repossessor or licensed repossession agency, and from any damage to the collateral after its release, including reasonable attorney's fees and costs associated with defending a claim, if the collateral was released in compliance with this section. (VEH § 14602.6(j))

14) Provides that, pursuant to VEH Section 4022 and to VEH Section 22651(o)(3)(B), a vehicle obtained by a licensed repossessor as a release of collateral is exempt from registration pursuant for purposes of the repossessor removing the vehicle to his or her storage facility or the facility of the legal owner. A law enforcement agency, impounding authority, tow yard, storage facility, or any other person in possession of the collateral shall release the vehicle without requiring current registration and pursuant to VEH Section 14602.6(f). (VEH § 4000(g)(1))

15) Provides that the legal owner of collateral shall, by operation of law and without requiring further action, indemnify and hold harmless a law enforcement agency, city, county, city and county, the state, a tow yard, storage facility, or an impounding yard from a claim arising out of the release of the collateral to a licensee, and from any damage to the collateral after its release, including reasonable attorney's fees and costs associated with defending a claim, if the collateral was released in compliance with this subdivision. (VEH § 4000(g)(2))

This bill:

1) Updates the definition of "deadly weapon" to refer to a "firearm".

2) Updates the definition of "legal owner" to conform to the corresponding legal definition of "registered owner".

3) Defines "repossession" as any of the following:

   a) When the repossessor gains entry to the collateral.

   b) The collateral becomes connected to a tow truck or to a repossessor's tow vehicle.

   c) The repossessor moves the entire collateral present.

   d) The repossessor gains control of the collateral

   e) The repossessor disconnects any part of the collateral from any surface where it is mounted or attached.

4) States that a "violent act" which must be reported to BSIS refers to an act that occurs during the repossession *up* until the time the repossessor is back in their vehicle.

Background

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:

1) Alarm Company Act

2) Locksmith Act

3) Private Investigator Act

4) Private Security Services Act

5) Proprietary Security Services Act

6) Collateral Recovery Act

The Collateral Recovery Act (Act) provides for the licensing and regulation of repossessors. Among other things, the Act specifies standards for education, experience, and repossession procedures. A licensed repossession agency contracts with the legal owner of property to locate and recover personal property sold under a security agreement. In order to be eligible for licensure as a repossession agency, a business must designate a "qualified manager" who is in active control of the business and meets the following criteria: (1) completes a background check; (2) has at least two years of compensated experience totaling not less than 4,000 hours either as an employee of a licensed California repossession agency or recent legally acquired experience recovering personal property while working as an employee of a financial institution or vehicle dealer; and, (3) passes an examination.

BPC Section 7502 prohibits a person from engaging in the activities of a repossession agency unless they hold a valid repossession agency license or are exempted from licensure as specified in BPC Sections 7500.2 and 7500.3. A repossession licensee must comply with disclosure requirements prior to, and after, repossession has occurred and must report business-related and other pertinent information to the BSIS. Specifically, a repossessor licensee must maintain adequate records of all transactions, store and inventory the personal effects recovered during the repossession for 60 days and further maintain the file for four years regarding the effects and the disposition of property, notify local law enforcement within one hour or repossessing a vehicle, report any violent acts regarding a licensee when acting in the course of business within seven days to the BSIS, and send a copy of a judgment from a civil court proceeding under specified conditions. All records are subject to BSIS review at any time.

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

SUPPORT: (Verified 9/2/21)

California Association of Licensed Repossessors (source)

OPPOSITION: (Verified 9/2/21)

None received

ARGUMENTS IN SUPPORT: The California Association of Licensed Repossessors believes this bill "will help to clarify and update the terms related to the repossession industry. These changes clear up confusing and conflicting provisions in the repossession law, modernize the law to reflect current consumer-friendly practices, and enable the profession to operate efficiently and effectively."

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: Sarah Mason / B., P. & E.D. /
9/7/21 16:48:41

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

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THIRD READING

Bill No: AB 937
Author: Carrillo (D), Kalra (D) and Santiago (D), et al.
Amended: 9/3/21 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: 42-21, 6/3/21 - See last page for vote

SUBJECT: Immigration enforcement

SOURCE: Asian Americans Advancing Justice – Asian Law Caucus

DIGEST: This bill eliminates the existing ability under the Values Act for law enforcement agencies to cooperate with federal immigration authorities by giving them notification of release for inmates or facilitating inmate transfers and to prohibit all state and local agencies from assisting, in any manner, the detention, deportation, interrogation, of an individual by immigration enforcement.

Senate Amendments of 9/3/21 delete the cross reference to the provision in existing law that allows a law enforcement entity to work with immigration authorities involved in a task force where the primary purpose is not immigration thus eliminating the prohibition in this bill and allowing work with these task forces to continue as under existing law.

ANALYSIS:

Existing federal law:

1) Provides that any authorized immigration officer may at any time issue Immigration Detainer-Notice of Action, to any other federal, state, or local law enforcement agency. A detainer serves to advise another law enforcement agency that the Department of Homeland Security (DHS) seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. The detainer is a request that such agency advise the DHS, prior to release of the alien, in order for the DHS to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible. (8 CFR Section 287.7(a).)

2) States that upon a determination by the DHS to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the DHS. (8 CFR Section 287.7(d).)

3) Authorizes the Secretary of Homeland Security under the 287(g) program to enter into agreements that delegate immigration powers to local police. The negotiated agreements between ICE and the local police are documented in memorandum of agreements (MOAs). (8 U.S.C. Section 1357(g).)

4) States that notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual. (8 U.S.C. 1373 (a).)

5) States that notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States. (8 U.S.C. 1644.)

Existing state law:

1) Defines "immigration hold" as "an immigration detainer issued by an authorized immigration officer, pursuant to specified regulations, that requests that the law enforcement official to maintain custody of the individual for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, and to advise the authorized immigration officer prior to the release of that individual." (Government Code § 7282 (c).)

2) Defines "Notification request" as an Immigration and Customs Enforcement request that a local law enforcement agency inform ICE of the release date and time in advance of the public of an individual in its custody and includes, but is not limited to, DHS Form I-247N. (Government Code § 7283 (f).)

3) Defines "Transfer request" as an Immigration and Customs Enforcement request that a local law enforcement agency facilitate the transfer of an individual in its custody to ICE, and includes, but is not limited to, DHS Form I-247X. (Government Code § 7283 (f).)

4) Prohibits law enforcement agencies (including school police and security departments) from using resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes. These provisions are commonly known as the Values Act. Restrictions include:

    a) Inquiring into an individual's immigration status;
    b) Detaining a person based on a hold request from ICE;
    c) Providing information regarding a person’s release date or responding to requests for notification by providing release dates or other information unless that information is available to the public;
    d) Providing personal information, as specified, including, but not limited to, name, social security number, home or work addresses, unless that information is “available to the public;”
    e) Arresting a person based on a civil immigration warrant;
    f) Participating in border patrol activities, including warrantless searches;
    g) Performing the functions of an immigration agent whether through agreements known as 287(g) agreements, or any program that deputizes police as immigration agents;
    h) Using ICE agents as interpreters;

i) Transfer an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or except as otherwise specified;
j) Providing office space exclusively for immigration authorities in a city or county law enforcement facility; and,
k) Entering into a contract, after June 15, 2017, with the federal government to house or detain adult or minor non-citizens in a locked detention facility for purposes of immigration custody. (Government Code § 7284.6(a).)

5) Describes the circumstances under which a law enforcement agency has discretion to respond to transfer and notification requests from immigration authorities. These provisions are known as the TRUST Act. Law enforcement agencies cannot honor transfer and notification requests unless one of the following apply:

a) The individual has been convicted of a serious or violent felony, as specified;
b) The individual has been convicted of any felony which is punishable by imprisonment in state prison;
c) The individual has been convicted within the last five years of a misdemeanor for a crime that is punishable either as a felony or misdemeanor (a wobbler);
d) The individual has been convicted within the past 15 years for any one of a list of specified felonies;
e) The individual is a current registrant on the California Sex and Arson Registry;
f) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as specified in the federal Immigration and Nationality Act; or,
g) The individual is identified by ICE as the subject of an outstanding federal felony arrest warrant for any federal crime; or,
h) The individual is arrested on a charge involving a serious or violent felony, as specified, or a felony that is punishable by imprisonment in state prison, and a magistrate makes a finding of probable cause as to that charge. (Government Code § 7282.5.)

6) Provides that law enforcement agencies are able to participate in joint taskforces with the federal government only if the primary purpose of the joint task force is not immigration enforcement. Participating agencies must annually report to the California Department of Justice (DOJ) if there were immigration

arrests as a result of task force operations. (Government Code, § 7284.6 (b) & (c).)

7) Allows law enforcement agencies to respond to a request from immigration authorities for information about a person's criminal history. (Government Code § 7284.6 (b)(2).)

8) Allows law enforcement agencies to make inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa. (Government Code § 7284.6 (b)(4).)

9) Allows law enforcement agencies to give immigration authorities access to interview an individual in agency custody if such access complies with the TRUTH Act. (Government Code, § 7284.6 (b)(5).)

This bill:

1) Specifies that a state or local agency shall not arrest or assist with the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purpose in any manner including, but not limited to, by notifying another agency or subcontractor thereof regarding the release date and time of an individual, releasing or transferring an individual into the custody of another agency or subcontractor thereof, or disclosing personal information, as specified, about an individual, including, but not limited to, an individual's date of birth, work address, home address, or parole or probation check in date and time to another agency or subcontractor thereof.

2) States that the prohibition described above shall apply notwithstanding any contrary provisions in the California Values Act, as specified, which allowed law enforcement to cooperate with immigration authorities in limited circumstances.

3) Specifies that this bill does not prohibit compliance with a criminal judicial warrant.

4) Prohibits a state or local agency or court from using immigration status as a factor to deny or to recommend denial of probation or participation in any diversion, rehabilitation, mental health program, or placement in a credit-earning program or class, or to determine custodial classification level, to deny mandatory supervision, or to lengthen the portion of supervision served in custody.

5) Defines the following terms for purposes of this bill:

   a) "Immigration enforcement" includes "any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States."
   b) "State or local agency" includes, but is not limited to, "local and state law enforcement agencies, parole or probation agencies, the Department of Juvenile Justice, and the Department of Corrections and Rehabilitation."
   c) "Transfer" includes "custodial transfers, informal transfers in which a person's arrest is facilitated through the physical hand-off of that person in a nonpublic area of the state or local agency, or any coordination between the state or local agency and the receiving agency about an individual's release to effectuate an arrest for immigration enforcement purposes upon or following their release from the state or local agency's custody."

6) States that in addition to any other sanctions, penalties, or remedies provided by law, a person may bring an action for equitable or declaratory relief in a court of competent jurisdiction against a state or local agency or state or local official that violates the provisions of this bill.

7) Specifies that a state or local agency or official that violates the provisions of this bill is also liable for actual and general damages and reasonable attorney's fees.

8) Repeals statutory provisions directing California Department of Corrections and Rehabilitation to implement and maintain procedures to identify inmates serving terms in state prison who are undocumented aliens subject to deportation.

9) Repeals statutory provisions directing CDCR and California Youth Authority to implement and maintain procedures to identify, within 90 days of assuming custody, inmates who are undocumented felons subject to deportation and refer them to the United States Immigration and Naturalization Service.

10) Repeals statutory provisions directing CDCR to cooperate with the United States Immigration and Naturalization Service by providing the use of prison

facilities, transportation, and general support, as needed, for the purposes of conducting and expediting deportation hearings and subsequent placement of deportation holds on undocumented aliens who are incarcerated in state prison.

11) Repeals the statutory directive to include place of birth (state or country)-in state or local criminal offender record information systems.

12) Makes uncodified Legislative findings and declarations.

Background

According to the author:

> Existing law does not prohibit the California Department of Corrections and Rehabilitation or local law enforcement in many cases to transfer individuals to the custody of Immigration and Customs Enforcement after they have completed their sentence or have otherwise been deemed eligible for release if they lack lawful status in the United States or if immigration authorities have deemed that their legal status can be revoked as a result of their criminal history. This effectively serves as an additional punishment on top of the one that was handed down in the criminal justice system, and the immigration enforcement system can result in indefinite detention where individuals have no right to habeas corpus or legal representation. When an individual is transferred to the custody of immigration authorities, their record of rehabilitation, their stable reentry plans, and their network of community support are disregarded. Federal immigration detention centers have been documented to have a record of abuse and neglect of detainees, and these detention centers are beyond the oversight and accountability of the state of California.

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

According to the Senate Appropriations Committee:

- *Department of Corrections and Rehabilitation (CDCR):* The department reports ongoing annual costs of $22 million to supervise up to 2,553 individuals on parole who, under existing law, would have been transferred into federal custody upon release and deported. Additionally, CDCR anticipates one-time costs of $150,000 to update information technology systems, regulations, policies and procedures, and training

related to the changes proposed by this measure. Costs to the department would be offset by an unknown amount from ongoing savings from reduced workload, as CDCR no longer would be required to contact immigration authorities about release date notices and changes, set up interviews with incarcerated persons, verify the status of immigration detainer holds, or arrange pick up for individuals upon release. (General Fund)

- *Counties:* Unknown, potentially-major costs in the millions of dollars annually for increased post-release community supervision (PRCS) caseloads to county probation departments to supervise individuals after a prison term for a non-serious, non-violent, or non-sexual offense who, under existing law, would have been transferred into federal custody upon release and deported. (General Fund*)

- *Courts:* Unknown, potentially-significant workload cost pressures to the courts to adjudicate alleged violations of this measure. While the superior courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to increase the amount appropriated to backfill for trial court operations. For illustrative purposes, the Budget Act of 2021 allocates $118.3 million from the General Fund for insufficient revenue for trial court operations. (General Fund**)

- *Department of Justice:* Minor one-time costs to modify the Automated Criminal History System to make an individual's place of birth an optional field when creating new record. (General Fund)

*Proposition 30 (2012) exempts the state from mandate reimbursements to local jurisdictions for realigned responsibilities for "Public Safety Services," including the managing of local jails and the provision of services for and supervision of youth and adults who have committed crimes. The constitutional amendment, however, provides that legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for public safety services transferred by the 2011 Realignment Legislation apply to local agencies only to the extent that the state provides annual funding for the costs increase. If the local costs resulting from this measure are determined to be included within the realigned responsibilities specified in Proposition 30, the local agency would not be obligated to provide the level of service

required by this bill above the level for which funding is provided by the state. The provisions of this bill may lead to the additional appropriation of funds to obtain local compliance, resulting in cost pressure to the General Fund. **Trial Court Trust Fund

SUPPORT: (Verified 9/3/21)

Asian Americans Advancing Justice – Asian Law Caucus (source)
ACLU California Action
Alliance for Boys and Men of Color
Alliance of Californians for Community Empowerment Action
Alliance San Diego
American Friends Service Committee
Anti-defamation League
API Equality-LA
Arts for Healing and Justice Network
Asian Pacific Islander Reentry thru Inclusion, Support, & Empowerment
Asian Prisoner Support Committee
Asian Solidarity Collective
Berkeley Society of Friends
Buen Vecino
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Commission on Asian and Pacific Islander American Affairs
California Federation of Teachers AFL-CIO
California Health+ Advocates
California Immigrant Policy Center
California Labor Federation, AFL-CIO
California League of United Latin American Citizens
California Nurses Association
California Pan - Ethnic Health Network
California Peninsula-south Bay Chapter, Center for Common Ground
California Public Defenders Association
California- Stop Terrorism and Oppression by Police Coalition
Catholic Charities of the Diocese of Stockton
Center for Common Ground
Center for Empowering Refugees and Immigrants
Central Valley Immigrant Integration Collaborative
Centro Legal De LA Raza
Clergy and Laity United for Economic Justice

Communities United for Restorative Youth Justice
Community Bridges
Contra Costa Immigrant Rights Alliance
County of San Diego
Critical Resistance
Defy Ventures
Democratic Club of the Conejo Valley
Democratic Party of Contra Costa County
Democratic Party of the San Fernando Valley
Democratic Woman's Club of San Diego County
Dolores Street Community Services
Drug Policy Alliance
Ella Baker Center for Human Rights
Eviction Defense Collaborative Union
Feel the Bern Democratic Club, Orange County
Freedom for Immigrants
Friends Committee on Legislation of California
Grip Training Institute/Insight-Out
Having Our Say Coalition
Human Rights Watch
Ice Out of Marin
Ice Out of Stockton
Immigrant Legal Resource Center
Inland Coalition for Immigrant Justice
Interfaith Movement for Human Integrity
John Burton Advocates for Youth
Kehilla Community Synagogue
Lakeshore Avenue Baptist Church
Law Enforcement Action Partnership
League of Women Voters of California
Legal Services for Prisoners with Children
Long Beach Immigrant Rights Coalition
Long Beach Southeast Asian Anti-deportation Collective
Los Angeles County District Attorney's Office
Mixteco Indigena Community Organizing Project
NARAL Pro-choice California
National Association of Social Workers, California Chapter
National Institute for Criminal Justice Reform
Nikkei Progressives
Oakland Privacy

Orange County Equality Coalition
Orange County Rapid Response Network
Pillars of the Community
Planned Parenthood Advocates Pasadena and San Gabriel Valley
Re:store Justice
Resilience Orange County
San Francisco District Attorney's Office
San Francisco Public Defender
Services, Immigrant Rights and Education Network
Silicon Valley De-Bug
Simi Valley Democratic Club
Stonewall Democratic Club
Success Stories Program
Surj Contra Costa County CA
The Multicultural Center of Marin
The Transformative In-prison Workgroup
Tsuru for Solidarity
UCSF White Coats for Black Lives
University of California Student Association
Ventura County Clergy and Laity United for Economic Justice
Vietrise
Voices for Progress Education Fund
We the People - San Diego
Women for American Values and Ethics
Youth Justice Coalition

OPPOSITION: (Verified 9/3/21)

California Police Chiefs Association
California State Sheriffs' Association
Peace Officers Research Association of California

ASSEMBLY FLOOR: 42-21, 6/3/21
AYES: Aguiar-Curry, Bennett, Berman, Bloom, Bryan, Burke, Calderon, Carrillo, Cervantes, Chiu, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, McCarty, Medina, Mullin, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Petrie-Norris, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Arambula, Bauer-Kahan, Boerner Horvath, Chau, Cooley, Cooper, Frazier, Irwin, Low, Maienschein, Mayes, Nazarian, Blanca Rubio, Salas, Villapudua, Waldron

Prepared by: Mary Kennedy / PUB. S. /
9/7/21 17:42:42

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

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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 ******

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

THIRD READING

Bill No: AB 1055
Author: Ramos (D), et al.
Amended: 9/7/21 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: 77-0, 5/28/21 - See last page for vote

SUBJECT: Foster youth: tribal pupils

SOURCE: California Tribal Families Coalition

DIGEST: This bill modifies the definition of "students in foster care" to eliminate the requirement that a dependent child of the court of an Indian tribe also meet the definition of a dependent child of a county court, and to include a child of an Indian tribe who is the subject of a voluntary placement agreement.

Senate Floor Amendments of 9/7/21 include double-jointing language to avoid chaptering issues with AB 167 (Committee on Budget) and SB 167 (Committee on Budget and Fiscal Review).

Senate Floor Amendments of 9/3/21 address concerns raised by the Department of Social Services and the California Department of Education, and avoid chaptering issues with AB 130 (Committee on Budget, Chapter 44, Statutes of 2021).

ANALYSIS: Existing law references dependents of the court, foster youth, foster child, student in foster care in the following contexts:

1) Includes, for purposes of the local control funding formula (LCFF), in the definition of "foster youth" a dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court, provided that the child would also meet one of the descriptions in Section 300 of the Welfare and Institutions Code describing when a child may be adjudged a dependent of the juvenile court. (Education Code § 42238.01)

2) Defines, relative to educational rights, educational liaisons, and continuation in the school of origin, "foster child" as a child who has been removed from his or her home pursuant to Section 309 of the Welfare and Institutions Code, is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from his or her home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code. (EC § 48853.5)

3) Defines, relative to the timely transfer of students and records, and the calculation of grades and credits, "pupil in foster care" as a child who has been removed from his or her home pursuant to Section 309 of the Welfare and Institutions Code, is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from his or her home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code. (EC § 49069.5)

4) Defines, relative to acceptance of coursework completed at another school and the application of course credit, "pupil in foster care" as a child who has been removed from their home pursuant to Section 309 of the Welfare and Institutions Code, is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from their home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code. (EC § 51225.2)

This bill modifies the definition of "pupils in foster care" and "foster child" to eliminate the requirement that a dependent child of the court of an Indian tribe also meet the definition of a dependent child of a county court, and to include a child of an Indian tribe who is the subject of a voluntary placement agreement. Specifically, this bill:

Identifying "unduplicated pupils" for the LCFF

1) Deletes the requirement that, for purposes of identifying "unduplicated pupils" for the LCFF, a dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court, would also meet one of the descriptions in Section 300 of the Welfare and Institutions Code when a child may be adjudged a dependent child of the juvenile court.

2) Adds an Indian child who is the subject of a voluntary placement agreement, as defined in subdivision (p) of Section 11400 of the Welfare and Institutions Code.

Academic achievement and educational options

3) Defines "pupils in foster care" as the same as "foster youth," as that term is defined for purposes of the LCFF.

Educational rights, educational liaisons, and continuation in the school of origin

4) Modifies the definition of "foster child" to strike references to being removed from the child's home and/or subject of a petition filed pursuant to the Welfare and Institutions Code, to instead provide that "foster child" has the same meaning as "foster youth," as that term is defined in for purposes of the LCFF.

Timely transfer of students and records, and the calculation of grades and credits

5) Modifies the definition of "pupil in foster care" to strike references to being removed from the pupil's home and/or subject of a petition filed pursuant to the Welfare and Institutions Code, to instead provide that "pupil in foster care" has the same meaning as "foster youth," as that term is defined in for purposes of the LCFF.

Data sharing

6) Provides, for the purpose of the existing data sharing agreement between the California Department of Education and the Department of Social Services for data and information on children and youth in foster care:

    a) For purposes of a dependent child of an Indian tribe, consortium of tribes, or tribal organization, authorizes the tribe to notify a local educational agency (LEA) about the student's status as a dependent child under the court of an Indian tribe, consortium of tribes, or tribal organization.

b) Prohibits a LEA from requiring an Indian tribe or tribal court representative to certify that any student is a dependent of an Indian tribe, consortium of tribes, or tribal organization.

Acceptance of coursework and application of credits

7) Modifies the definition of "pupil in foster care" to strike references to being removed from the pupil's home and/or subject of a petition filed pursuant to the Welfare and Institutions Code, to instead provide that "pupil in foster care" has the same meaning as "foster youth," as that term is defined in for purposes of the LCFF.

Miscellaneous

8) Includes recent changes to affected Education Code sections to reflect related provisions in AB 130 (Committee on Budget, Chapter 44, Statutes of 2021).

9) Includes double-jointing language to avoid chaptering issues with AB 167 (Committee on Budget) and SB 167 (Committee on Budget and Fiscal Review).

Comments

Need for the bill. According to the author, "Two groups of children are not properly / correctly included in the definition of Foster youth for purposes of Education Code benefits that assist Foster youth. 1) This bill would delete the requirement that a dependent tribal child subject to the jurisdiction of a tribal court also meet specified state law standards for purposes of the definition of foster youth for purposes of the local control funding formula. 2) This bill would add children who are subjects of voluntary placement agreements, as specified, to the definition of foster youth for purposes of the local control funding formula.

"Additionally, Covid-19 disproportionally impacts American Indian communities and native and non-native foster youth. Any and all educational related benefits that assist this these youth must be clearly stated in the law and include the correct definitions so that no foster youth are left of these protections. AB 1055 will ensure that youth under the authority of a Tribal Court will not only be included in the definition of a student in foster care, but that they also are eligible for the same support resources as their non-tribal counterparts."

Tribal foster youth and the LCFF. As noted in the Assembly Education Committee analysis of this bill, AB 1962 (Wood, Chapter 748, Statutes of 2018) amended the definition of foster youth for purposes of the LCFF by including a student who is in foster care under the placement and care responsibility of an Indian tribe

provided that the child would also meet one of the descriptions in Section 300 of the Welfare and Institutions Code describing when a child may be adjudged a dependent child of the juvenile court. The prior definition of foster youth included non-minors who had been so designated by an Indian tribe, consortium of tribes, or tribal organization, but excluded students under 18 years of age. The requirement that students also meet one of the descriptions in Welfare and Institutions Code Section 300 was intended to provide consistency in the identification of foster youth for purposes of this entitlement. This change was intended to ensure that the attendance of students in foster care who were dependents of a court of an Indian tribe would generate the same additional LCFF funding as other students in foster care who were dependents of a county juvenile court. However, according to the author, tribal courts' processes do not meet the descriptions in Section 300 of the Welfare and Institutions Code.

Extends existing rights of foster youth to children who are dependents of an Indian tribe, consortium of tribes, or tribal organization. By including tribal foster youth in existing definitions of "foster youth" and "pupils in foster care," this bill thereby extends to these youth existing educational rights (such as remaining in the school of origin, transfer of school records, and exemption from local graduation requirements) that are afforded to foster youth under the jurisdiction of a county juvenile court.

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

According to the Senate Appropriations Committee, this bill's modification of the definition of foster youth could trigger an increase in LCFF entitlement funds for LEAs that other foster youth receive, resulting in additional Proposition 98 General Fund costs to the state each year. The extent of these costs is unknown and would depend on the number of students newly designated as foster youth students.

Any costs to the California Department of Education and Department of Social Services to make the necessary changes in the state's data system to track this foster youth population are likely to be minor and absorbable within existing resources.

SUPPORT: (Verified 9/7/21)

California Tribal Families Coalition (source)
Alliance for Children's Rights
California CASA
California Charter Schools Association
Children Now

Yocha Dehe Wintun Nation

OPPOSITION: (Verified 9/7/21)

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
9/8/21 19:49:55

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

Office of Senate Floor Analyses
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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
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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 ******

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THIRD READING

Bill No: AB 1103
Author: Megan Dahle (R), et al.
Amended: 9/3/21 in Senate
Vote: 21

SENATE AGRICULTURE COMMITTEE: 4-0, 6/17/21
AYES: Borgeas, Caballero, Eggman, Glazer
NO VOTE RECORDED: Hurtado

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

ASSEMBLY FLOOR: 77-0, 5/27/21 - See last page for vote

SUBJECT: Agricultural lands: livestock producers: managerial employees: livestock pass program: disaster access to ranch lands

SOURCE: California Cattlemen's Association

DIGEST: This bill establishes within a county a livestock pass program (Livestock Pass) for the purpose of issuing identification documents granting any qualifying livestock producer or managerial employee, as defined, to the producer's ranch property during or following a natural disaster.

Senate Floor Amendments of 9/3/21 clarify access to areas closed due to disasters may be authorized only by an incident commander or law enforcement official having jurisdiction, or their designee; and clarify when access is granted by emergency response personnel other than an incident commander such emergency response personnel shall notify incident command that access has been provided to a livestock passholder.

ANALYSIS:

Existing law:

1) Requires the Secretary of Food and Agriculture (secretary) to examine persons who want to be a county agricultural commissioner or deputy county agricultural commissioner.

2) Requires a county agricultural commissioner to be responsible for local administration of enforcement.

3) Requires the secretary to be responsible for overall statewide enforcement.

4) Requires the secretary to furnish assistance in planning and otherwise developing an adequate county enforcement program.

5) Authorizes specified law enforcement and public safety officers and professionals to close an area where a menace to the public health or safety is created by a calamity, including flood, storm, fire, earthquake, explosion, accident, or other disaster, as provided.

This bill:

1) Authorizes (upon approval by a county board of supervisors) a county agricultural commissioner, or other designated agency, to establish within the county a livestock pass program. The purpose of the program is to issue identification documents granting a livestock producer or a managerial employee of the producer access to the producer's farm or ranch property during or following a flood, storm, fire, earthquake, or other disaster.

2) Allows a producer or managerial employee who has a Livestock Pass to access another producer's property during or following a flood, storm, fire, earthquake, or other disaster, so long as the other producer holds a Livestock Pass and has given permission.

3) Requires, on or before January 1, 2023, the State Fire Marshal (SFM), with the Statewide Training and Education Advisory Committee, to develop a curriculum for livestock producers eligible for this livestock pass program.

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

According to the Senate Appropriations Committee, SFM would incur one-time staff costs in the low hundreds of thousands of dollars to develop the Ag Pass

curriculum and certification standards. The California Department of Food and Agriculture notes that it would not have a fiscal impact as a result of this bill.

By specifying requirements a county must follow if it chooses to create an Ag Pass program, this bill may create a state-mandated local program. To the extent the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service, county could claim reimbursement for costs. The magnitude of these costs is unknown (General Fund).

SUPPORT: (Verified 8/27/21)

California Cattlemen's Association (source)
California Climate & Agriculture Network
California Women in Timber
San Luis Obispo County Farm Bureau
Wine Institute

OPPOSITION: (Verified 8/27/21)

None received

ARGUMENTS IN SUPPORT: According to the author, "Lack of timely access to a farm or ranch during a wildfire or other emergency incident can be devastating to livestock and force ranchers to make truly difficult decisions. In 2020, one rancher lost hundreds of cattle to the Bear Fire (part of the North Complex Fire) as he struggled to gain access to his rangelands. Many ranchers have ignored evacuation orders, knowing that once they leave they may not be able to gain return access to care for their animals. Others have been evacuated only to eventually make the difficult choice to bypass roadblocks to access their farm or ranch, risking their safety and a misdemeanor charge to ensure the welfare of their animals. AB 1103 creates a standardized training and framework for a livestock pass program (Livestock Pass), allowing ranchers to access their property in an emergency to save their livestock and lands."

The California Cattlemen's Association, sponsor of this bill, states that first responders and law enforcement close roads during a natural disaster to ensure the safety of local residences and to prevent motorists from impeding emergency response efforts. These road closures sometimes prevent ranchers from ensuring the health and well-being of their animals. They state it is important to give ranchers and managers access to their ranching operations. They possess the expertise necessary to handle large numbers of cattle or other livestock. Emergency responders and volunteers might not have the expertise.

Additionally, the California Cattlemen's Association states several counties have already initiated a livestock pass program; however, without a statewide framework in place, those counties have had to "re-invent the wheel" when developing training curriculum and coordinating with first responders and volunteers, burdening local resources. This bill requires the SFM to establish a standardized, statewide training curriculum for Livestock Pass holders.

ASSEMBLY FLOOR: 77-0, 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, 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: Maienschein

Prepared by: Reichel Everhart / AGRI. /(916) 651-1508
9/7/21 16:46:56

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

SENATE RULES COMMITTEE AB 1140
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(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1140
Author: Robert Rivas (D)
Amended: 9/7/21 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 5-0, 6/8/21
AYES: Hurtado, Jones, Cortese, Kamlager, Pan

SENATE JUDICIARY COMMITTEE: 11-0, 7/13/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Skinner, Stern, Wieckowski

ASSEMBLY FLOOR: 78-0, 4/19/21 (Consent) - See last page for vote

SUBJECT: Foster care: rights

SOURCE: Immigrant Defense Advocates
Immigrant Legal Resource Center
Kids in Need of Defense
Legal Services for Children
National Center for Youth Law
Vera Institute of Justice
Youth Law Center

DIGEST: This bill clarifies that the duties of the California Department of Social Services (CDSS) include protecting the rights of children who are in state-licensed foster facilities and homes while in the custody of the Office of Refugee Resettlement (ORR) of the federal Department of Health and Human Services. This bill also clarifies that the duties of the Office of the State Foster Care Ombudsperson (OFCO) includes investigating and attempting to resolve complaints made by or on behalf of these children.

Senate Floor Amendments of 9/7/21 correct a drafting error in the 9/3/21 amendments to this bill, which accidentally changed "residential facility" to "state

licensed facility." These amendments change the terminology back to "residential facility."

Senate Floor Amendments of 9/3/21 provide double jointing language resolving the conflict arising from AB 1140 (Robert Rivas) and AB 317 (Patterson) both amending Welfare and Institutions Code Section 16164.

Senate Floor Amendments of 8/30/21 clarify the types of facilities licensed by CDSS, unaccompanied minors may be placed in by the ORR.

ANALYSIS:

Existing law:

1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. *(WIC 202*)

2) Establishes licensing and regulatory oversight by CDSS over, among other places, residential care facilities and licensed foster family homes for foster children. *(HSC 1500 et seq.)*

3) Requires any facility licensed to provide foster care for six or more children to post a listing of a foster child's rights, as provided. Requires the OFCO to provide posters of these rights and include the OFCO's telephone number on the poster. *(HSC 1530.91(c))*

4) Enumerates the rights of minors and nonminors in foster care, as provided. *(WIC 16001.9)*

5) Requires CDSS to ensure that a facility licensed, and a home certified or approved by a foster family agency to provide foster care, as provided, shall accord children and nonminor dependents in foster care their personal rights, including, but not limited to, the rights enumerated in the Foster Youth Bill of Rights. Further requires CDSS to adopt regulations to implement and enforce the provision of these rights. *(WIC 1530.91(c))*

6) Establishes the OFCO as an autonomous entity within CDSS for the purpose of providing children who are placed in foster care with a means to resolve issues related to their care, placement, or services. *(WIC 16161)*

7) Authorizes the Ombudsperson, in his or her efforts, to resolve complaints related to foster care, to conduct whatever investigation they deem necessary,

attempt to resolve the complaint informally, and submit a written plan to the relevant state or county agency recommending a course of action to resolve the complaint. *(WIC 16165)*

8) Defines "unaccompanied undocumented minor" (UUM) 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 reach 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 State is available to provide care and physical custody. *(WIC 13300(c); 6 U.S.C. Section 279(g)(2))*

This bill:

1) Adds residential facilities and foster homes for children placed by ORR to those licensed facilities that CDSS must ensure accord children and nonminor dependents in foster care their personal rights, as provided.

2) Requires the OFCO to investigate and attempt to resolve complaints made by or on behalf of children in state-licensed residential facilities and foster homes in the custody of the ORR of the federal Department of Health and Human Services.

Comments

According to the author, "Thousands of unaccompanied children cross our border fleeing poverty and violence, and many of them are temporarily taken into federal custody in state-licensed childcare facilities. California's foster care system lacks explicit protections for unaccompanied immigrant children, which leaves them particularly vulnerable. AB 1140 addresses this vulnerability by clarifying the law under existing federal and state law authority to guarantee that this group of children will not be overlooked and underserved by the State during a time of desperate need."

Community Care Licensing Division (CCLD). Within CDSS is CCLD, which is responsible for licensing and investigating complaints against facilities that fall within its jurisdiction, such as residential care facilities for the elderly, child care facilities, and out-of-home placements for foster youth, among others. Typically, these facilities provide non-medical care and supervision for adults and youth by providing adult care services, early childhood education (child care), foster care and shelter services for youth, and residential care for seniors or individuals with developmental disabilities. CCLD is also responsible for ensuring these facilities

comply with all applicable laws and regulations, including criminal background checks, as well as overseeing any necessary corrective actions in the event of noncompliance.

Child Welfare Services (CWS). The CWS system is an essential component of the state's safety net. Social workers in each county who receive reports of abuse or neglect, investigate and resolve those reports. When a case is substantiated, a family is either provided with services to ensure a child's well-being and avoid court involvement, or a child is removed from the family and placed into foster care. In 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.

Foster Youth Bill of Rights. In 2001, AB 899 (Lui, Chapter 683, Statutes of 2001) consolidated and codified in statute all of the rights existing law provided at the time to foster youth and created the Foster Youth Bill of Rights. Over time, additional rights have been given to foster youth and added to the Foster Youth Bill of Rights.

In 2016, AB 1067 (Gipson, Chapter 851, Statutes of 2016) required CDSS to convene a working group of stakeholders from around the state, to be chaired by the OFCO and include specified stakeholders. The OFCO held stakeholder meetings and conducted a series of youth focus groups to inform and respond to the work of the working group on this issue, and ultimately the working group submitted a report containing recommendations to the Legislature.

AB 175 (Gipson, Chapter 416, Statutes of 2019) subsequently revised, recast, and expanded the Foster Youth Bill of Rights based on the working group's recommendations. AB 175 clarified that all children placed in foster care, either voluntarily or after being adjudged a ward or dependent of the juvenile court have their rights delineated in the Foster Youth Bill of Rights. The current list of rights for all minors and nonminors in foster care includes 41 enumerated rights, which includes the right to live in a safe, healthy, and comfortable home where they are treated with respect.

Foster Care Ombudsperson. The OFCO was established as an autonomous entity within CDSS to provide children placed in foster care with an independent forum for review and resolution of concerns related to the care, placement or services provided to children and youth in foster care. As such, the OFCO investigates, and seeks to resolve, complaints regarding foster care, including complaints against

state and local agencies. Additionally, the OFCO is responsible for compiling data on the complaints they receive to share with the Legislature and other relevant stakeholders so that this data may be considered in the development of recommendations regarding the improvement of the child welfare system. The OFCO is also responsible for disseminating information relating to the Foster Youth Bill of Rights and ensuring that children and youth in foster care know their rights.

This bill adds youth in the custody and care of ORR residing in a CDSS licensed home or facility to those whom the Ombudsperson may investigate and attempt to resolve complaints on behalf of.

Undocumented Youth under the Custody of the Office of Refugee Resettlement. There have been concerning reports about the treatment of immigrant unaccompanied undocumented minors in state-licensed settings. In an effort to protect immigrant children, this bill makes it clear that unaccompanied immigrant children in state-licensed settings are entitled to all their personal rights, including all the rights set forth in the Foster Youth Bill of Rights, like other foster children, and affirms the Foster Care Ombudsperson's jurisdiction and responsibility to engage in oversight of unaccompanied immigrant children held in ORR custody in state licensed facilities in California.

Currently unaccompanied undocumented minors who are detained are placed in the custody of ORR. These children are required by the federal Flores Settlement Agreement to be held in state-licensed facilities. These facilities exist all over California and currently hold over 2,000 children per year. Unfortunately, despite the protections outlined for these children as a result of the Flores settlement, they fall between the cracks of protective state laws because they do not explicitly have someone to whom they can turn to investigate and resolve problems regarding their treatment or services. Unaccompanied undocumented minors are receiving disparate care from other California children in state-licensed settings. To address this problem, AB 1140 provides that undocumented unaccompanied minors in state licensed homes or facilities are entitled to all their personal rights, including all the rights set forth in the Foster Youth Bill of Rights, just like any other foster child. This bill also affirms the Ombudsperson's jurisdiction, as well as responsibility, to engage in oversight of immigrant children held in ORR custody in state-licensed facilities in California. This bill matches the rights of children placed by ORR in California state-licensed facilities to what is provided under state law to children receiving services through the state's CWS system. In order to ensure the health and safety of children in California, this bill clarifies the personal rights of unaccompanied undocumented children and requires the Ombudsperson to engage

in oversight of the state-licensed facilities where these children are placed, just as the Ombudsperson is required to engage in oversight of the state-licensed facilities where other foster children are placed.

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

SUPPORT: (Verified 9/7/21)

Immigrant Defense Advocates (co-source)
Immigrant Legal Resource Center (co-source)
Kids in Need of Defense (co-source)
Legal Services for Children (co-source)
National Center for Youth Law (co-source)
Vera Institute of Justice (co-source)
Youth Law Center (co-source)
Advancing Justice – Asian Law Caucus
African Advocacy Network
Al Otro Lado
Alliance for Children's Rights
American Academy of Pediatrics California Chapter 1
American Immigration Lawyers Association – San Diego Chapter
Anne and Henry Zarrow School of Social Work
API Legal Outreach
Bay Area Health and Legal Partnerships for Immigrant Youth and Families
Bet Tzedek Legal Services
Burma Refugee Families & Newcomers
California Alliance of Child and Family Services
California Collaborative for Immigrant Justice
California Immigrant Policy Center
California Rural Legal Assistance Foundation
Californians Together
Center for Gender & Refugee Studies
Center of Excellence for Immigrant Child Health and Wellbeing, UCSF Benioff Children's Hospitals
Central American Resource Center – CARCEN of California
Central American Resource Center – CARCEN SF
Centro Legal de La Raza
Children Now
Children's Law Center of California
Church World Service
Coalition to Abolish Slavery & Trafficking

Communities United for Restorative Youth Justice
Community Action Board of Santa Cruz County
Community Action Marin
Community Legal Aid SoCal
Community Legal Services in East Palo Alto
Courage California
Disability Rights California
Dolores Street Community Services
Dreamer Fund
East Bay Refugee and Immigrant Forum
East Bay Sanctuary Covenant
Education and Leadership Foundation
Ella Baker Center for Human Rights
Empowering Pacific Islander Communities
Esperanza Immigrant Rights Project, Catholic Charities of Los Angeles INC.
Food Empowerment Project
Friends Committee on Legislation of California
Haywood Burns Institute
Immigrant Defenders Law Center
Immigrant Legal Defense
Immigrant Legal Services of the Central Coast
Indivisible Sacramento
Initiate Justice
International Rescue Committee
Jewish Family Service of San Diego
John Burton Advocates for Youth
Justice and Diversity Center of the Bar Association of San Francisco
La Raza Centro Legal
La Raza Community Resource Center
Law Foundation of Silicon Valley
Long Beach Immigrant Rights Coalition
Los Angeles Center for Law and Justice
Los Angeles County Office of Education
Lutheran Office of Public Policy – California
National Association of Social Workers - California
National Council of Jewish Women California
National Immigration Law Center
NorCal Resist
Open Immigration Legal Services
Orange County Equality Coalition

Pangea Legal Services
Pomona Economic Opportunity Center
Project Lifeline
Public Counsel
Restaurant Opportunities Centers of California
San Francisco Immigrant Legal Defense Collaborative
San Joaquin College of Law – New American Legal Clinic
Santa Cruz Barrios Unidos
Santa Cruz Welcoming Network
Secure Justice
Sierra College Undocumented Student Center
Soccer Without Borders
Social Justice Collaborative
Street Level Health Project
Teach
Thai Community Development Center
The Children's Partnership
UCSF Health and Human Rights Initiative
UCSF Immigration & Deportation Defense Clinic
United We Dream
USC Gould School of Law Immigration Clinic
Verity
Vidas Legal Services and Committee
Women's Foundation California
Young Women's Freedom Center

OPPOSITION: (Verified 9/7/21)

None received

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: Marisa Shea / HUMAN S. / (916) 651-1524
9/8/21 19:49:54

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

SENATE RULES COMMITTEE AB 1158
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1158
Author: Petrie-Norris (D)
Amended: 9/3/21 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 INSURANCE COMMITTEE: 10-0, 7/8/21
AYES: Rubio, Jones, Archuleta, Bates, Borgeas, Glazer, Hueso, Hurtado, Portantino, Roth
NO VOTE RECORDED: Dodd, Melendez

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

ASSEMBLY FLOOR: 75-0, 6/1/21 - See last page for vote

SUBJECT: Alcoholism or drug abuse recovery or treatment facilities: recovery residences: insurance coverage

SOURCE: California Insurance Commissioner Ricardo Lara

DIGEST: This bill requires licensed alcoholism or drug abuse recovery or treatment facilities (RTFs) to maintain liability and other insurance coverages, as specified. This bill requires government entities that contract with RTFs and recovery residences (RRs) to require those entities to maintain similar insurance coverages.

Senate Floor Amendments of 9/3/21 clarify that RRs are considered to be run not-for-profit as long as they are not owned by or under contract with an RTF licensed by the Department of Health Care Services (DHCS), or are not owned by or under contract with an affiliate, contractor, or intermediary of a DHCS-licensed RTF.

ANALYSIS:

Existing federal law:

1) Prohibits, pursuant to the federal Fair Housing Act (FHA), housing discrimination on the basis of race, color, religion, sex, handicap, familial status, and national origin.

2) Defines "handicap" (disability) as a physical or mental impairment that substantially limits one or more major life activities, including having a drug addiction and alcoholism, as specified. [42 USC §3601, et seq.]

Existing state law:

1) Grants the Department of Health Care Services (DHCS) the sole authority in state government to administer, license, certify, and regulate all substance use disorder (SUD) functions and programs. [HSC §11750, et seq.]

2) Requires DHCS to license RTFs that provide residential non-medical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery, treatment, or detoxification services. [HSC §11834.01, et seq.]

3) Requires an RTF that serves six or fewer persons, for purposes of local regulation, to be considered a residential use of property. Prohibits the application of any term to an RTF that implies the treatment home is a business run for profit or differs in any other way from a single-family residence. [HSC §11834.23]

4) Requires a DHCS licensed RTF or certified program to disclose to DHCS ownership or control of, or financial interest in, a "recovery residence," as defined, or any contractual relationship with an entity that regularly provides professional services or substance use disorder treatment or recovery services to clients of licensed RTFs or certified programs, if the entity is not part of the certified program or licensed RTF. [HSC §11833.05]

5) Defines a "recovery residence" as a residential dwelling that provides primary housing for individuals who seek a cooperative living arrangement that supports personal recovery from an SUD and that does not require licensure by DHCS or does not provide licensable services, as specified, including residential dwellings commonly referred to as "sober living homes (SLH)," "sober living environments," or "unlicensed alcohol and drug free residences." [HSC §11833.05]

6) Defines "policy of residential property insurance" to mean a policy insuring individually owned residential structures of not more than four dwelling units, individually owned condominium units, or individually owned mobile homes, and their contents, located in this state and used exclusively for residential purposes or a tenant's policy insuring personal contents of a residential unit located in this state. [INS §10087]

This bill:

1) Requires a DHCS-licensed RTF that serves more than six residents to, at all times, maintain all of the following insurance coverages:

   a) Commercial general liability insurance that includes coverage for premises liability, products and completed operations, contractual liability, personal injury and advertising liability, abuse, molestation, sexual actions, and assault and battery, with minimum coverage amounts for bodily injury or property damage of not less than $1 million per occurrence;

   b) Commercial or business automobile liability insurance covering all owned vehicles, hired or leased vehicles, nonowned vehicles, and borrowed and permissive uses, with minimum coverage amounts for bodily injury or property damage of not less than $1 million per occurrence;

   c) Workers' compensation insurance, as specified;

   d) Employer's liability insurance, with minimum coverage amounts for bodily injury or disease of not less than $100,000 per occurrence; and,

   e) Professional liability and errors and omissions insurance that includes an endorsement for contractual liability, with minimum coverage of $1 million per occurrence and $2 million aggregate, with a contract that includes an endorsement for defense and indemnification of any government entity with which the RTF has contracted, if applicable.

2) Requires DHCS-licensed RTFs that serve six or fewer residents to maintain liability insurance from an admitted or nonadmitted insurer, as specified.

3) Requires any "government entity," as defined, that contracts with an RTF or RR to require the contractor, at all times, to maintain insurance coverages in 1) and 2) above, with the government entity included as an additional insured. Defines "government entity" as the state, the county, or a city.

4) Permits a privately owned recovery residence that contracts with a government entity to meet the insurance requirements of this section by procuring coverage from an admitted insurer, or a nonadmitted insurer that is eligible to insure a home state insured, as specified.

5) Prohibits an RR managed by its residents and run not-for-profit, as specified, from being prohibited from obtaining coverage under a policy of residential property insurance.

Comments

Author's statement. According to the author, currently there is no existing state law that requires an RTF or RR to maintain minimum insurance coverage levels. The lack of this requirement puts patients and workers at risk. With more Californians seeking RTFs or RRs for assistance, stronger consumer protections are needed now. While there are many good actors in the state helping individuals get on their feet, some media reports detail unscrupulous business practices that are using patients for profits. The most notable of media investigatory reports is a series by the Orange County Register describing the "Rehab Riviera" and the abuses in substance abuse recovery services in Southern California, operating with little to no government regulation and/or private insurance industry risk management. It is critical that patients seeking recovery receive the care they need without worrying about their safety. This bill will ensure that licensed RTFs and RRs that contract with the government maintain minimum insurance coverage levels to protect patients and workers from abuse or injury.

(NOTE: For an extensive analysis on this bill, please refer to the Senate Health Committee analysis dated June 28, 2021.)

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

According to the Senate Appropriations Committee:

- DHCS estimates increased staffing costs of $610,000 in FY 2024-24 and $574,000 ongoing General Fund;

- California Department of Corrections and Rehabilitation report potential costs which are unknown; and,

- Potential state-reimbursable mandate costs for local public safety agencies also unknown.

SUPPORT: (Verified 8/26/21)

California Insurance Commissioner Ricardo Lara (source)
Associated Rehabilitation Program for Women, Inc.
California Consortium of Addiction Programs and Professionals
Casa Palmera
City of Torrance
Community Social Model Advocates, Inc.
County of Orange
Elevate Addiction Services
Hathaway Recovery
Opus Health, LLC
Orange County Recovery Collaboration
San Jose City College Alcohol and Drug Studies Program
Soroptimist House of Hope, Inc.
Stepping Stone San Diego
The Purpose of Recovery
The Turning Point Home

OPPOSITION: (Verified 8/26/21)

Los Angeles County Sober Living Coalition

ARGUMENTS IN SUPPORT: The California Insurance Commissioner Ricardo Lara (CIC) cites regulations for licensed RTFs that require them to report such things as client deaths and the lack of such a requirement imposed on RRs. The CIC argues that an insurance company would want to know if there was a death or facility injury or if a residence or facility is complying with facility standards so they can manage their risk and assess whether additional safety protocols may be necessary by their insured. Risk management, or loss control, is used by many insurance companies today, especially those that write commercial liability insurance. Because commercial liability claims tend to be complex with high dollar amounts at stake with the potential for litigation, most commercial insurance companies have their own loss prevention departments or rely upon contracted loss prevention services. Usually loss control services are built into higher risk, higher premium accounts as a part of the entire package of insurance. When proven loss control measures are implemented, the public and workers are better protected, and premium costs go down as loss experience improves. Any business, including a SLH, could reasonably have liability that a residential insurance policy would not sufficiently cover. Commercial insurance coverage that is available today is more suitable for the risks associated with this type of business. Other supporters argue

that this bill will ensure that RTF clients and RR participants will be compensated when necessary and will serve to strengthen the state's treatment and recovery system by reducing the number of SUD businesses and living arrangements that fail due to inadequate insurance coverage. Additionally, unscrupulous RR/SLH operators who seek to avoid responsibility when damages are incurred will no longer be able to skip town when their poorly managed residences experience predictable outcomes of property damage and/or injury to residents.

ARGUMENTS IN OPPOSITION: The Los Angeles County Sober Living Coalition (LACSLC) argues that commercially operated treatment centers should not be confused with small homes used by myriad government entities for vulnerable people. Big treatment centers should, of course, have commercial insurance, but the small operators who make a few beds available for poor people will not be able to maintain affordable beds for people who chose recovery if they are held to the same standard as large, licensed recovery centers. Every small home operator already carries liability coverage sufficient to protect people in their homes. Requiring additional coverage is not needed. LACSLC argues this is a thinly veiled money grab by big operators and the insurance industry, and additional costs will eliminate housing. LACSLC request this bill be amended to remove the requirement that privately operated RRs must provide commercial insurance.

ASSEMBLY FLOOR: 75-0, 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, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Kiley, Lee, Quirk-Silva, Blanca Rubio

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
9/7/21 17:03:40

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

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

THIRD READING

Bill No: AB 1220
Author: Luz Rivas (D), et al.
Amended: 9/3/21 in Senate
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-1, 6/22/21
AYES: Hurtado, Cortese, Kamlager, Pan
NOES: Jones

SENATE HOUSING COMMITTEE: 9-0, 7/8/21
AYES: Cortese, Bates, Caballero, Eggman, McGuire, Ochoa Bogh, Skinner, Umberg, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 76-0, 5/20/21 (Consent) - See last page for vote

SUBJECT: Homelessness: California Interagency Council on Homelessness

SOURCE: Author

DIGEST: This bill renames the Homeless Coordinating and Financing Council (HCFC) as the Interagency Council on Homelessness (ICH), reconstitutes its membership, and requires it to consult with a specified advisory group of stakeholders.

Senate Floor Amend of 9/3/21 provide double jointing language resolving the conflict arising from AB 1220 (Luz Rivas) and AB 977 (Gabriel) both amend Sections 8256 and 8257 of the Welfare and Institutions Code.

Senate Floor Amendments of 8/31/21 change the meaning of Council from the HCFC to the ICH and make changes to the membership of the ICH, including removing individuals with lived experience from the ICH and placing them on the advisory committee created by this bill.

ANALYSIS:

Existing law:

1) Establishes the United States Interagency Council on Homelessness to coordinate a federal response to homelessness and create a national partnership at every level of government with the private sector to end homelessness.

2) Defines, in federal statute, the word "homeless" for the purpose of housing assistance, to mean an individual or family who lacks a fixed, regular, and adequate nighttime residence, such provided. *(42 CFR 91.5)*

3) Establishes the Business Consumer Services and Housing Agency (BCSH). *(GOV 12804)*

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

5) Establishes the Homeless Emergency Aid Program (HEAP) for the purpose of providing localities with one-time flexible block grant funds to address their immediate homeless challenges. *(HSC 50211)*

6) Establishes the Homeless Housing, Assistance, and Prevention (HHAP) program for the purpose of providing jurisdictions with one-time grant funds to support regional coordination and expand or develop local capacity to address immediate homelessness challenges informed by a best-practices framework focused on moving individuals experiencing homelessness and families into permanent housing and supporting the efforts of those individuals and families to maintain their permanent housing. *(HSC 50217(a))*

7) Requires HHAP program funding recipients to expend funds on evidence-based solutions that address and prevent homelessness among eligible populations, including outreach and coordination, which may include access to job programs, to assist vulnerable populations in accessing permanent housing and to promote housing stability in supportive housing. *(HSC 50219(c)(4))*

8) Requires, pursuant to the Bagley-Keene Open Meeting Act, a state body to provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item, however, this requirement is not applicable to a closed session. *(Gov. Code 11125.7)*

This bill:

1) Renames the HCFC as the ICH and reconstitutes its membership as follows, to serve at the pleasure of the relevant appointing authority:

   a) Requires the Secretary of the California Health and Human Services Agency to sever as a co-chair with the Secretary of the Business, Consumer Services, and Housing Agency.

   b) Requires existing member agencies and departments to be represented by the Director or Secretary rather than by a representative, except for the Department of Education.

   c) Adds the Directors of the Departments of Aging, Rehabilitation, and State Hospitals; the State Public Health Officer; the executive director of the California Workforce Development Board; and the Director of the Office of Emergency Services.

   d) Moves the two representatives of local agencies who participate in the United States Department of Housing and Urban Development's (HUD's) Continuum of Care (CoC) program to an advisory committee (see 2) below).

   e) Removes the other members who may be appointed at the Governor's discretion.

2) Requires the ICH to meet at least quarterly with an advisory committee that includes: a current or former homeless person; a current or former homeless youth; a survivor of gender-based violence who formerly experienced homelessness; representatives of local agencies or organizations who participate in HUD's CoC program; stakeholders with expertise in solutions to homelessness and best practices from other states; and, representatives of committees on African Americans, youth, and survivors of gender-based violence.

3) Requires a state agency or department that administers a homeless program or programs to, upon request of the ICH, participate in ICH workgroups, task forces, or other similar administrative structures, and provide to the ICH any relevant information regarding those programs.

Background

According to the author, "AB 1220 makes a number of structural changes to the current Homeless Coordinating and Financing Council. This measure renames the

Council to the California Interagency Council on Homelessness. This name change more accurately represents the purpose of the Council and will set the stage for the restructuring of the Council membership and committees. The Council will be tasked with various goals, among them are: identifying resources to prevent homelessness, creating partnerships among state agencies, promoting system integrations to increase efficiency, making policy recommendations to the Legislature, and others. It's time we restructure, and empower the California Interagency Council on Homelessness to serve as a statewide facilitator, coordinator, and policy development to end homelessness in California."

Homelessness in California. According to the HUD's 2020 Annual Homeless Assessment Report to Congress, in January 2020 California accounted for more than one-fifth of the nation's homeless population (28%, or 161,548 people). California also contains more than half of the nation's unsheltered homeless population (51%, or 113,660 people), including people living in vehicles, abandoned buildings, parks, or on the street. California experienced the largest increase in homelessness in the US, a 6.8% increase from 2019 to 2020 (10,270 individuals). Los Angeles accounts for the highest number of homeless people in the nation, at 51,290 (followed by New York City at 36,394). In five major metropolitan areas, more than 80% of homeless individuals were unsheltered: San Jose (87%), Los Angeles (84%), Fresno (84%), Oakland (82%), and Long Beach (81%).

While these numbers provide a snapshot of the state's homeless population, they likely underestimate the scope of the crisis because the HUD point-in-time (PIT) count only measures the homeless population on one day of the year. Moreover, the PIT count does not capture everyone experiencing homelessness, as some do not wish to be counted and others cannot be counted because their location is not known to those counting. People experiencing homelessness face a variety of challenges including food and income insecurity, as well as health problems; the homeless population faces a higher risk of exposure to communicable diseases such as COVID-19, influenza, strep throat, sexually transmitted diseases, Hepatitis C, HIV/AIDS, and tuberculosis, among others.

The HCFC. The HCFC was created in 2017 (SB 1380, Mitchell, Chapter 847, Statutes of 2016) to oversee the implementation of "Housing First" policies, guidelines, and regulations to reduce the prevalence and duration of homelessness in California. Housing First is an evidence-based model that focuses on the idea that homeless individuals should be provided shelter and stability before underlying issues can be successfully addressed. Housing First utilizes a tenant screening process that promotes accepting applicants regardless of their sobriety,

use of substances or participation in services. This approach contrasts to the "housing readiness" model where people are required to address predetermined goals before obtaining housing. The federal government has shifted its focus to Housing First over the last decade, and housing programs under HUD utilize core components of this strategy. Since the implementation of the Housing First model, chronic homelessness in the U.S. experienced a 27% decrease between 2010 and 2016. Housing First was embraced by California in 2015 through SB 1380, which requires all state housing programs to adopt this model.

As the state's homelessness crisis has worsened, the role of the HCFC has significantly increased, as it has been charged with administering two significant programs dedicated to addressing homelessness, HEAP and HHAPP. This bill recognizes this increased role, and the increasing severity of the homelessness crisis, by raising the profile of Council members from department representatives to department heads and expanding the membership of the Council. Additionally, this bill expands the role of an advisory committee, made up of individuals with lived experience and stakeholders with expertise in solutions to homelessness, requiring the Council to meet at least quarterly with a specified advisory committee.

Coordination of State Homelessness Programs. In California there are at least 40 different programs relating to homelessness administered by multiple state agencies and departments. A 2017 Audit of Homelessness in California by the California State Auditor reported that "one factor that contributes to other entities having a lower proportions of unsheltered homeless individuals is the existence of a specific organization dedicated to addressing homelessness."[1] The audit went on to look at the HCFC and the challenges it faced in addressing homelessness due to lack of permanent staffing and adequate funding. Although some of these challenges were addressed through SB 850 (Senate Committee on Budget and Fiscal Review, Chapter 48, Statues of 2018), there is still a sense that the HCFC struggles to coordinate the state's response to homelessness across agencies and departments.

In response to the Governor's 2020-2021 Budget proposals addressing homelessness, the Legislative Analyst's Office (LAO) wrote the following regarding California's current approach to homelessness, "addressing a problem as complex and interconnected as homelessness requires the involvement of departments and agencies across the state and collaboration among all levels of government and other stakeholders. A fragmented response creates various

[1] https://www.auditor.ca.gov/pdfs/reports/2017-112.pdf

challenges." The LAO went on to recommend that the legislature develop a homelessness plan that: identifies goals; identifies solutions that align with goals; sets clear state and local responsibilities; identifies state governance structure; establishes funding strategy; and, develops rigorous oversight mechanism.

This bill is attempting to address the coordination and oversight of homelessness programs by renaming the HCFC, making changes to the membership of the Council, and providing the Council with some additional authority. For example, this bill allows the Council to require state departments or agencies that administer one or more state homelessness programs to participate in council workgroups, task forces, or other similar administrative structures and requires those departments or agencies to provide the Council with relevant information pertaining to those homelessness programs upon request. This provides additional authority to the Council to access information on and attempt to coordinate homelessness programs operated by different state departments or agencies.

In regards to membership, this bill requires department directors, agency secretaries, and executive directors to participate on the council rather than their representatives. This seems to be an attempt to ensure leadership of these departments and agencies are participating in Council activities and decision-making. Additionally, this bill removes the Governor's ability to appoint up to 19 members of the council from specific entities, as provided for in current law, and instead sets specific membership requirements. This bill also adds the following members: the Director of Public Health; the Director of the California Department of Aging; the Director of Rehabilitation; the Director of State Hospitals; and the executive director of the California Workforce Development Board. This bill also creates an advisory committee to the Council that reflects racial and gender diversity, and includes survivors of gender-based violence, represents of local agencies or organizations that participate in HUD's CoC Program, stakeholders with expertise in solutions to homelessness and best practices from other states, and representatives of committees on African Americans, youth, and survivors of gender-based violence. This bill further requires the Council to meet with this advisory committee at least quarterly. As amended on the Senate Floor this bill removes members from the council who are currently homeless or were previously homeless and places those individuals on the advisory committee. Current HCFC staff requested that change due to the expanded role of the advisory committee and the change of Council membership to department directors, agency secretaries, and executive directors.

Related/Prior Legislation

AB 83 (Committee on Budget, Chapter 15, Statutes of 2020), among other things, provided 300 million in grant funding for a Round Two of HHAP program funding.

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

AB 101 (Committee on Budget, Chapter 159, Statutes of 2019), among other things, created the HHAP Program, requiring the HCFC to distribute $650 million in funds to assist local governments in addressing homelessness.

SB 850 (Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2018) allocated $500 million in Homeless Emergency Aid Program (HEAP) block grant funds, which was created to provide one time funding to enable local governments to respond to homelessness.

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

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

SUPPORT: (Verified 8/17/21)

Brilliant Corners
California Partnership to End Domestic Violence
California YIMBY
City of Thousand Oaks

OPPOSITION: (Verified 8/17/21)

None received

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: Marisa Shea / HUMAN S. / (916) 651-1524
9/7/21 17:31:19

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

SENATE RULES COMMITTEE AB 1349
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1349
Author: Mathis (R), et al.
Amended: 9/3/21 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 13-0, 6/14/21
AYES: Eggman, Dahle, Becker, Borgeas, Bradford, Dodd, Gonzalez, Grove, Hertzberg, McGuire, Min, Rubio, Stern
NO VOTE RECORDED: Hueso

SENATE JUDICIARY COMMITTEE: 11-0, 6/29/21
AYES: Umberg, Borgeas, Caballero, Durazo, Gonzalez, Hertzberg, Jones, Laird, Stern, Wieckowski, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 8/30/21 (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, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk
NO VOTE RECORDED: Stern

ASSEMBLY FLOOR: 76-0, 5/20/21 (Consent) - See last page for vote

SUBJECT: California Advanced Services Fund: Broadband Adoption Account

SOURCE: Author

DIGEST: This bill adds nonprofit religious organizations to the list of groups eligible for grant funding from the California Advanced Services Fund (CASF) broadband adoption account.

Senate Floor Amendments of 9/3/21 address chaptering conflicts with the Budget Act, but include chaptering conflicts with SB 4 (Gonzalez) and AB 14 (Aguiar-Curry).

ANALYSIS:

Existing law:

1) Establishes the CASF, which is administered by the California Public Utilities Commission (CPUC) to fund broadband infrastructure deployment in unserved areas through December 31, 2022. (Public Utilities Code §281(a-b)).

2) Establishes various accounts within the CASF, including the Broadband Adoption Account, which provides organizations with grants to increase broadband access, digital inclusion, and digital literacy in communities with limited broadband adoption. Existing law specifies that these communities include low-income communities, senior communities, and communities experiencing socioeconomic barriers to broadband adoption. (Public Utilities Code §281(j))

3) Specifies that the following organizations are eligible for grants from the Broadband Adoption Account: local governments, senior centers, schools, public libraries, nonprofit organizations, certain and community-based organizations with public and after school digital inclusion programs. (Public Utilities Code §281(j))

This bill adds nonprofit religious organizations to the list of groups eligible for grant funding from the CASF broadband adoption account.

Background

CASF and the Adoption Account. The CASF is financed through and end user surcharge on in-state telecommunications services, and it provides grants for broadband infrastructure deployment and broadband adoption projects. While the majority of CASF funding is allocated to broadband infrastructure deployment, the CASF includes a Broadband Adoption Account to provide grants for digital literacy programs and access to broadband-equipped resources such as computer labs. Under existing law, the Broadband Adoption Account receives $20 million of the CASF revenues; however, existing law sunsets the CASF on December 31, 2022, and the CPUC has indicated that limited funds exist for the broadband adoption grant applications submitted in January 2021.

What is a religious organization? This bill adds religious organizations to the list of entities eligible for grant funding from the Broadband Adoption Account. While this bill does not define what entities constitute religious organizations, the bill clarifies that these organizations must be considered nonprofits. Under existing law, the CPUC has already awarded adoption grants to entities that meet certain definitions of a nonprofit religious organization. The CPUC awarded a $25,843 CASF Adoption Account grant to the Sikh Gurdwara of San Jose to support digital literacy training and provide computing devices to 70 eligible participants. A 'gurdwara' is defined as a Sikh place of worship, and the San Jose location has been provided a tax exemption by Santa Clara County as a religious organization. The project is scheduled to complete in January 2023.

Bill's conflicts with pending legislation limits future funding for broadband access funding, including adoption grants. While this bill intends to clarify that nonprofit religious organizations are eligible for CASF adoption funds, limited adoption funding remains in the CASF under existing law. In October 2020, the CPUC notified potential CASF broadband adoption applicants that limited funding was available for grant cycle that started in January 2021. SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) provided additional federal stimulus funds for broadband infrastructure deployment. However, those funds do not extend to the Broadband Adoption Account. As a result, it is not clear if sufficient adoption funds would be available to fund any nonprofit religious organizations' adoption programs under this bill if the CASF is not extended.

Two pieces of pending legislation (SB 4 (Gonzalez, 2021) and AB 14 (Aguiar-Curry)) would extend the CASF and ensure that infrastructure deployment and adoption projects have sufficient funds. This bill does not incorporate language to prevent chaptering conflicts with SB 4 (Gonzalez, 2021) and AB 14 (Aguiar-Curry). Specifically, these chaptering issues would effectively eliminate the following policies contained in SB 4 and AB 14:

- Extending CASF, including extending funding for local broadband deployment projects, adoption, public housing, and regional broadband consortia that do not qualify for federal stimulus funds.

- Allowing the CPUC to update the CASF surcharge to reduce ratepayer cost-shifts.

- Expanding CASF grant eligibility to unserved locations used for emergency response, including fairgrounds.

While this bill would clarify that nonprofit religious organizations are eligible for CASF adoption funds, this bill's conflicts with pending legislation could eliminate potential future funding for the Broadband Adoption Account from which those religious organizations would otherwise receive grants.

Related/Prior Legislation

SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) made various changes to enact $6 billion in broadband infrastructure spending contained in the 2021-2022 Budget Act. The bill also extended the goals of the CASF and made several modifications to the CASF program, including increasing the minimum speed of infrastructure funded by the CASF and expanding the communities eligible for CASF infrastructure grants.

SB 4 (Gonzalez, 2021) extends the CASF and make various changes to the program, including increasing the minimum speed of CASF-funded infrastructure to 100/20 mbps, expanding the definition of an unserved area, updating the program's funding mechanism, and eliminating the right of first refusal. The bill is currently pending in the Assembly.

AB 14 (Aguiar-Curry, 2021) makes various modifications to the CASF, including eliminating the right of first refusal, increasing the minimum speed standards for CASF-funded infrastructure, expanding the definition of an unserved area eligible for grants, and expanding the types of projects eligible for CASF funding to include projects that deploy broadband to specified "anchor institutions." The bill is currently pending in the Senate.

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: No

SUPPORT: (Verified 9/7/21)

None received

OPPOSITION: (Verified 9/7/21)

None received

ARGUMENTS IN SUPPORT: According to the author:

> For many small communities, especially within rural areas, the building of a religious organization is not simply a place of worship, but a building that is central to the wellbeing and functioning of the community.
>
> These buildings are commonly used for numerous non-religious activities and events, including after-school clubs and programs, a place where elderly groups meet, and as the venue for organizations that provide emotional support and addiction recovery services.
>
> In allowing religious organization to be eligible for funds within the Broadband Adoption Account, AB 1349 will increase broadband access and digital inclusion for the most vulnerable and remote regions of California.

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: Sarah Smith / E., U., & C. / (916) 651-4107
9/7/21 16:54:04

****** 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 ******

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

THIRD READING

Bill No: AB 1395
Author: Muratsuchi (D) and Cristina Garcia (D), et al.
Amended: 9/3/21 in Senate
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 7/12/21
AYES: Allen, Gonzalez, Skinner, Stern, Wieckowski
NOES: Bates, Dahle

SENATE APPROPRIATIONS COMMITTEE: 4-2, 8/26/21
AYES: Portantino, Kamlager, Laird, McGuire
NOES: Bates, Jones
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 42-21, 6/3/21 - See last page for vote

SUBJECT: The California Climate Crisis Act

SOURCE: Author

DIGEST: This bill declares that it is the policy of the state to achieve net zero greenhouse gas (GHG) emissions and reduce anthropogenic GHG emissions by at least 90% below the 1990 level no later than 2045.

Senate Floor Amendments of 9/3/21 clarify that the criteria that prevents the double counting of emissions reductions associated with utilizing CO_2 that is captured or removed from the atmosphere, applies to tracking progress towards the state's climate targets.

ANALYSIS:

Existing law:

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

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

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

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

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

This bill:

1) Declares it is the policy of the state to:

    a) Achieve net zero GHG emissions as soon as possible, but no later than 2045, and to achieve and maintain net negative GHG emissions thereafter.
    b) Ensure that by 2045, statewide anthropogenic GHG emissions are reduced by at least 90% below 1990 levels, which includes emissions prevented by carbon capture and storage (CCS).

2) Requires ARB, as the primary agency responsible for achieving the 2045 net zero GHG emission goal, to fulfill a number of specified duties. Such requirements of ARB include, but are not limited to:

a) Updating the scoping plan to identify and recommend measures to achieve net zero GHG emissions and reduce statewide anthropogenic GHG emissions by at least 90% below 1990 levels by 2045;
b) Coordinating with relevant state agencies to identify policies and strategies to achieving GHG emission reduction goals;
c) Reporting to the Legislature:

    i) Annually on progress towards five-year interim GHG emission reduction goals, as identified by ARB, and
    ii) By December 31, 2035 on the feasibility and tradeoffs of achieving 90% GHG emission reductions by 2045 relative to other scenarios;

d) Establish criteria for nature-based climate solutions;
e) Establish criteria for CCS and CO_2 removal technologies, and, among other stipulations, ensuring those criteria:

    i) Consider the benefits, risks, and uncertainties associated with these technologies;
    ii) Avoid any adverse impact on air quality and public health;
    iii) Omit crediting of captured CO_2 for fossil fuel extraction;
    iv) Require any emission reductions and carbon removal to be permanent, quantifiable, and done with contingencies for release or reversal; and
    v) Include robust monitoring, accounting, and annual reporting to ARB.

3) Requires the Legislative Analyst's Office to conduct independent analyses of ARB's progress towards these goals every two years and prepare a report detailing its review and any recommendations, to be made publicly available.

4) Requires state agencies, in working towards net zero GHG emissions, to:

    a) Engage the support, participation, and partnership of researchers, businesses, investors, and communities, as appropriate;
    b) Seek to support the health and economic resiliency of communities, particularly low-income and disadvantaged communities; and,
    c) Support climate adaptation and biodiversity.

Background

1) *The climate crisis in California.* California is particularly susceptible to the harmful effects of climate change, including an increase in extreme heat

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

California is already experiencing the effects of climate change now. For example, eight out of the past ten years have had significantly below-average precipitation. As of September 2020, the state has experienced a degree of wildfire activity that California's Fourth Climate Change Assessment initially forecasted to not occur until 2050. California's 2018 wildfires alone, less than half the size of the 2020 conflagrations, cost $148.5 billion in damages. Climate impacts are and will continue to result in devastating capital losses, loss of natural resources, health costs, as well as negatively influence mental health, food security, and displacement.

2) *Climate change and equity.* The effects of climate change to date have been felt the world over, but the most dire consequences have often struck those least able to defend themselves. Should reaching net zero GHG emissions be delayed and rapid warming allowed to continue, experts predict unprecedented numbers of deaths, ecosystem destruction, and human migration. In a 2019 report on climate change and poverty, the United Nations Human Rights Council states, "Addressing climate change will require a fundamental shift in the global economy, decoupling improvements in economic well-being from fossil fuel emissions… An over-reliance on the private sector could lead to a climate apartheid scenario in which the wealthy pay to escape overheating, hunger, and conflict, while the rest of the world is left to suffer." When equity is taken into account for GHG emissions reductions, "the combined emissions of the richest one per cent of the global population account for more than twice the poorest 50 per cent. The elite will need to reduce their footprint by a factor of at least 30 to stay in line with the Paris Agreement targets," according the United Nations Environment Programme (UNEP) 2020 Emissions Gap Report.

3) *Net zero GHG emissions*. Achieving net zero GHG emissions – a state where GHG emissions either reach zero or are entirely offset by equivalent atmospheric GHG removal – by mid-century is essential in all scenarios that would keep Earth's average temperature within 1.5 °C of its historical average. According to the UNEP 2020 Emissions Gap Report, which provides an annual

update on global progress on climate change, the consensus is that, globally, we are not on track to meet that goal. However, the report does state that, "the growing number of countries committing to net-zero emissions goals by mid-century is the most significant climate policy development of 2020. To remain feasible and credible, these commitments must be urgently translated into strong near-term policies and action."

4) *State climate goals.* Three US states (Massachusetts, Nevada, and Virginia) have net-zero GHG targets and at least 11 states have GHG emissions reduction targets signed into law, several with targets more ambitious than California's current target of 40% GHG emissions reduction by 2030. In California, Governor Brown's Executive Order (EO) B-55-18 established the goal of carbon neutrality by 2045, however this target is not codified in statute.

5) *Pathways to net zero*. In October 2020, ARB commissioned a report by Energy and Environmental Economics (E3) titled *Achieving Carbon Neutrality in California*, which laid out three scenarios for reaching net zero GHG emissions in California by 2045. The scenarios include (1) the High Carbon Dioxide Removal (CDR) scenario; (2) the Zero Carbon Energy scenario; and, (3) the Balanced scenario. All scenarios call for at least 80% GHG emission reduction. Regarding least-regret options, the report states "Achieving carbon neutrality by 2045 requires ambitious near-term actions around deployment of energy efficiency, transportation and building electrification, zero-carbon electricity, and reductions in non-energy, non-combustion greenhouse gas emissions. These least-regrets strategies are common across all deep decarbonization strategies." In other words, focusing on cutting GHG emissions is less risky than relying on CDR to offset emissions because, even if technology adoption or implementation is hampered, we are at least moving in the right direction.

6) *Carbon Capture and Storage.* CCS is a process of separating CO_2 from a point source, such as the flue of a gas-fired power plant or a cement plant, and putting it into long-term storage, usually by injecting CO_2 into a geological reservoir. CCS is generally considered by experts to be a CO_2 reduction strategy since it is only reducing CO_2 from anthropogenic sources that would have otherwise entered the atmosphere, rather than removing what was already there. According to a report called *California's Energy Future – The View to 2050* by the California Council on Science and Technology (CCST) updated in 2015, any use of fossil fuels for electricity generation would need to be paired with CCS to meet the current 2050 GHG emissions target (80% reduction). CCS is adoptable in California due to the existing geological storage from the

state's history of fossil fuel extraction. However, no CCS projects exist today in California, and it is unlikely that CCS could be scaled up at the pace needed due to the current regulatory framework for screening and authorizing projects. CCS remains controversial because it could prolong the life of fossil fuels and delay the transition to more sustainable fuels.

7) *GHG removal*. An essential part of carbon neutrality in any scenario is atmospheric GHG removal (also called negative emissions), to account for GHG emissions which cannot be mitigated. For GHG removal options in California, Lawrence Livermore National Lab (LLNL) produced a report in 2020 called *Getting to Neutral*, where they determined that California could remove on the order of 125 million tons of CO_2-equivalents per year from the atmosphere by 2045 to achieve carbon neutrality and achieve the current goal of 80% GHG emissions reduction by 2050. The report concludes that "California can achieve this level of negative emissions at modest cost, using resources and jobs within the State, and with technology that is already demonstrated or mature." The GHG removal methods that are outlined in the report are converting waste biomass to fuels and store CO_2, direct air capture (DAC) and CO_2 storage, and capture and storage of carbon through nature-based solutions on NWL.

   CO_2 removal technologies are generally understood to include converting and storing CO_2 from biomass, with or without creating energy. If biomass carbon that returns to the atmosphere when it decays, burns, or when it is used to produce energy is instead captured and stored, then the result is net negative GHG emissions. According to the *Getting to Neutral* report, these solutions hold the greatest potential for negative emissions across the state. These technologies are sometimes controversial due to potential impacts to ecosystems, food security, increased criteria pollutants, and land use.

   Direct air capture (DAC) is a technology where specially designed machines are used to remove CO_2 from the ambient air (rather than a point source) and permanently store it underground or turn it into valuable products. It has nearly unlimited technical capacity, provided its energy needs can be met from renewable sources. However, this is the most expensive negative emissions option and it can also have extensive land-use requirements.

   Nature-based solutions depend on careful management of NWL to enhance biological removal of CO_2 from the atmosphere, reduce emissions of GHGs, and preserve existing carbon stores in NWL. Some sources show that

California's NWL are a net GHG source, losing more carbon than they are sequestering, with wildfire being the largest cause of carbon loss. A number of entities in California's executive branch are developing policy and implementing programs to mitigate disturbances on NWL and make them into a healthy carbon sink in the future.

Comments

1) *Purpose of Bill.* According to the author, "Climate change is the defining crisis of our time and it is happening even more quickly than we originally thought. No corner of this state is immune from the devastating consequences of climate change. The rising temperatures are fueling environmental degradation, sea level rise, weather extremes such as drought, food and water insecurity, economic disruption, ocean acidification, and catastrophic wildfires. According to experts, to avert the most catastrophic impacts of climate change, we must limit atmospheric warming to 1.5 degrees Celsius, which necessitates California reaching net zero emissions by mid-century. This bill would require the state to achieve net zero emissions as soon as possible, but no later than 2045 and net negative greenhouse gas emissions thereafter. This bill additionally sets up a framework that recognizes the need to maximize emissions reductions and the need to deploy carbon negative strategies as well as nature-based solutions to help the state achieve this goal."

2) *Codifies carbon neutrality, and more*. By requiring the state to achieve net zero GHG emissions by 2045, this bill codifies the carbon neutrality goal included in EO B-55-18. It also expands upon it by requiring at least 90% reduction of anthropogenic GHG emissions compared to 1990 levels by the same year. The current statutory goal, set by SB 32 (Pavley, Chapter 249, Statutes of 2016), is a 40% decrease in GHG emissions by 2030. That means GHG emissions would need to be reduced at approximately the same pace of around 4% per year to achieve the 90% reduction by 2045. The remaining 10% of emissions would need to be balanced by CO_2 removal from the atmosphere to achieve net zero.

   It should be noted that additional negative emissions could account for more than 10%, meaning the state would be achieving net negative GHG emissions. It is the state's goal to have net zero or net negative emissions onward into the future, which will be necessary to prevent further warming. The longer it takes for GHG emissions to be reduced worldwide, the more sharply they will need to be cut in the future to avoid the worst effects of climate change. While California only plays one small part in global GHG reduction efforts globally, not doing so will come at a monumental cost. To allow temperatures to rise

past 1.5° or 2 °C this century is to accept unavoidable disruption to agriculture, trade, immigration, and public health. The less action California and other governments take to address the threat, the more impacts we will all suffer. To hold temperature rise to less than 1.5° or 2 °C this century will require enormous, heroic decarbonization efforts on the part of every wealthy city, state, province, and country.

3) *What is the best way to get to net zero?* Although there is widespread consensus on the need for eventual net zero GHG emissions to avoid the most devastating impacts of climate change, there is often disagreement about how to get there. Solutions span the range from market-based, compliance-based, technology-based, and more. Usually, the answer so far has been some combination of all-of-the-above.

   AB 1395 specifies that, to reach net zero GHG emissions, 90% of anthropogenic GHG emissions should be reduced by 2045. This is roughly in line with the E3 Zero Carbon Energy scenario, which would require an economy-wide shift to deep direct GHG emissions reductions and away from fossil fuel use. When setting a landmark climate goal such as this, the Legislature must consider what they want the future of California in 2045 to look like. Is it a future still dependent on fossil fuels—and the pollutants and environmental injustices that come with it—but with enough carbon removal from trees and DAC to achieve net zero? Or is it a radically different California, where, as the UN Human Rights Council said, we make a fundamental shift from decoupling improvements in economic well-being from fossil fuel emissions, doing so in such a way that provides necessary support, protects workers, and creates decent work. Whatever path is decided upon will either require setting the course now, or accepting the path of least resistance.

   The questions before the Legislature are, "How prescriptive should we be in determining the state's pathway to net-zero GHG emissions?" And, "Is it enough to get to net zero, or should we also prioritize things like environmental justice, health, jobs, or other factors in our climate goals?" One of the biggest questions is, "What sacrifices are we prepared to make to avoid the most catastrophic outcomes of climate change, and who makes them?"

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

According to the Senate Appropriations Committee,

- Unknown ongoing costs, likely in the millions of dollars annually (Cost of Implementation Account [COIA]), for the California Air Resources Board (ARB) to ensure that updates to the scoping plan identify and recommend measures to achieve the policy goals that would be established by this bill, identify strategies that support various solutions, and establish criteria, among other things.
- Unknown one-time costs, likely in the range of $250,000 to $500,000 (General Fund or special fund), for the California Natural Resources Agency (CNRA) to work with ARB to establish criteria for the use of nature-based climate solutions for the purposes of achieving the policy goals that would be established by this bill.
- Unknown but likely significant one-time costs, possibly in the low millions of dollars, for various state departments to revisit existing regulations, reopen proceedings, and make changes to current programs in order to conform to the policy goals that would be established by this bill.
- To the extent that this bill mitigates any state costs due to climate change, unknown but potentially significant state savings.

SUPPORT: (9/8/21)

350 Bay Area Action
350 Butte County
350 Conejo / San Fernando Valley
350 Humboldt
350 Sacramento
350 Silicon Valley
350 South Bay Los Angeles
350 Southland Legislative Alliance
350 Ventura County Climate Hub
Active San Gabriel Valley
Audubon California
Ban SUP (Single Use Plastic)
California Business Alliance for a Clean Economy
California Interfaith Power & Light
California League of Conservation Voters
California Releaf
Center for Climate Change and Health
Ceres
City of Del Mar

City of Irvine Mayor Farrah N. Khan
Clean Air Task Force
Clean Water Action
Climate Action Campaign
Coalition for Clean Air
Communitiy Water Center
E2 (environmental Entrepreneurs)
Ecosocialism Working Group of San Diego
Environment California
Environmental Defense Fund, Incorporated
Environmental Justice League
Environmental Working Group
Fossil Free California
Friends Committee on Legislation of California
Greenbelt Alliance
Hammond Climate Solutions
Indivisible Alta Pasadena
Indivisible California Green Team
Indivisible South Bay LA
Long Beach Gray Panthers
Los Angeles Business Council
Mayor Robert Whalen City of Laguna Beach
Natural Resources Defense Council
Nature Conservancy
Nextgen California
Planning and Conservation League
Sacramento Area Congregations Together
San Diego 350
San Diego Audubon Society
San Diego Green Building Council
San Diego Green New Deal Alliance
San Francisco Bay Physicians for Social Responsibility
Sierra Business Council
Sierra Club California
Socal 350 Climate Action
Spur
Surfrider Foundation San Diego Chapter
The Climate Reality Project San Diego Chapter
U.S. Green Building Council, Inc.
Union of Concerned Scientists

Voices for Progress
Zev 2030

OPPOSITION: (9/8/21)

Agricultural Council of California
Agricultural Energy Consumers Association
Almond Alliance of California
Association of California Egg Farmers
Beaumont Chamber of Commerce
Biofuelwatch
Bizfed Central Valley
Brower Dellums Institute for Sustainable Policy Studies and Action
Building Owners and Managers Association of California
California African American Chamber of Commerce
California Agricultural Aircraft Association
California Apartment Association
California Association of Realtors
California Association of Wheat Growers
California Bean Shippers Association
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Cement Manufacturers Environmental Coalition
California Chamber of Commerce
California Citrus Mutual
California Cotton Ginners and Growers Association
California Council for Environmental & Economic Balance
California Environmental Justice Coalition
California Farm Bureau Federation
California Fuels and Convenience Alliance
California Grain & Feed Association
California Independent Petroleum Association
California Labor Federation, AFL-CIO
California League of Food Producers
California Manufacturers and Technology Association
California Pear Growers Association
California Pool & Spa Association
California Poultry Federation
California Rice Commission
California Seed Association

California State Association of Electrical Workers
California State Floral Association
California State Pipe Trades Council
California Walnut Commission
California Warehouse Association
Calpine Corporation
Carlsbad Chamber of Commerce
Center for Community Action and Environmental Justice
Central California Asthma collaborative
Central California Environmental Justice Network
Central Valley Business Federation
Chino Valley Chamber of Commerce
Climate 911
Climate Health Now
Corona Chamber of Commerce
Earthjustice
East Yard Communities for Environmental Justice
Environmental Health Coalition
Environmental/Justice Solutions
Far West Equipment Dealers Association
Fontana Chamber of Commerce
Futureports
Garden Grove Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Ontario Business Council
Hawthorne Chamber of Commerce
Hemet San Jacinto Valley Chamber of Commerce
Highland Chamber of Commerce
Independent Energy Producers Association
Indian People Organizing for Change
Indigenous Environmental Network
Industrial Environmental Association
Inland Empire Economic Partnership
International Brotherhood of Boilermakers, Western States Section
International Council of Shopping Centers
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation
Menifee Valley Chamber of Commerce

Moreno Valley Chamber of Commerce
Murrieta Wildomar Chamber of Commerce
NAIOP of California, the Commercial Real Estate Development Association
North Orange County Chamber of Commerce
Orange County Business Council
Pacific Egg & Poultry Association
Perris Valley Chamber of Commerce
Physicians for Social Responsibility- Los Angeles
Physicians for Social Responsibility- San Francisco Bay Area Chapter
Pomona Chamber of Commerce
Rancho Cucamonga Chamber of Commerce
Redlands Chamber of Commerce
Redondo Beach Chamber of Commerce
Regional Hispanic chamber of Commerce
Sempra Energy Utilities
Simi Valley Chamber of Commerce
Sisters of St. Joseph of Carondelet Los Angeles
South Bay Association of Chambers of Commerce
State Building and Construction Trades Council of CA
Sunflower Alliance
Sustainable Agriculture & Energy of Monterey County
Temecula Valley Chamber of Commerce
Torrance Area Chamber of Commerce
Upland Chamber of Commerce
Valley Industry and Commerce Association
Walnut Creek Chamber of Commerce
Western Agricultural Processors Association
Western Growers Association
Western Independent Refiners Association
Western Independent Refiners Association
Western States Council Sheet Metal, Air, Rail and Transportation
Western States Petroleum Association
Yorba Linda Chamber of Commerce

ARGUMENTS IN SUPPORT: In a letter of support, a coalition of 38 environmental organizations argues, "There is no doubt that ambitious action is needed to address climate change and its impacts. The latest IPCC report underscores that absent immediate and aggressive efforts to reduce climate pollution and build resilience to the impacts of climate change, the climate challenges that we already face will continue to worsen, further threatening the health and wellbeing of communities and the environment."

ARGUMENTS IN OPPOSITION: In a letter of opposition, a coalition of 37 organizations representing businesses and industries argues, "This is an extraordinarily aggressive goal that would require large-scale transformation of California's entire economy. This policy is the equivalent of eliminating California's industrial, residential, commercial, transportation, electrical, and manufacturing sectors – effectively shutting down the entire state economy. AB 1395 also threatens the role technology can play in reducing emissions and achieving carbon neutrality."

ASSEMBLY FLOOR: 42-21, 6/3/21
AYES: Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Carrillo, Chau, Chiu, Cooley, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Lorena Gonzalez, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wood, Rendon
NOES: Bigelow, Chen, Choi, Megan Dahle, Daly, Davies, Flora, Fong, Gallagher, Gipson, Gray, Kiley, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel
NO VOTE RECORDED: Aguiar-Curry, Arambula, Burke, Calderon, Cervantes, Cooper, Cunningham, Grayson, Low, Maienschein, Mayes, O'Donnell, Rodriguez, Blanca Rubio, Villapudua, Waldron

Prepared by: Rylie Ellison / E.Q. / (916) 651-4108
9/9/21 15:49:30

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

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 ******