2023-24 SESSION

SENATE
THIRD READING PACKET

THURSDAY, SEPTEMBER 14, 2023

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Thursday, September 14, 2023.

Note	Measure	Author	Location
+	SB 10	Cortese	Unfinished Business
+	SB 18	McGuire	Unfinished Business
+	SB 19	Seyarto	Unfinished Business
+	SB 33	Glazer	Unfinished Business
+	SB 35	Umberg	Unfinished Business
+	SB 48	Becker	Unfinished Business
+	SB 49	Becker	Unfinished Business
+	SB 52	Durazo	Unfinished Business
+	SB 76	Wiener	Unfinished Business
+	SB 81	Skinner	Unfinished Business
+	SB 97	Wiener	Unfinished Business
+	SB 105	Skinner	Unfinished Business
	SB 264	Niello	Unfinished Business
+	SB 271	Dodd	Unfinished Business
	SB 275	Grove	Governor's Vetoes
+	SB 286	McGuire	Unfinished Business
+	SB 319	McGuire	Unfinished Business
+	SB 323	Portantino	Unfinished Business
+	SB 326	Eggman	Unfinished Business
+	SB 331	Rubio	Unfinished Business
+	SB 362	Becker	Unfinished Business
+	SB 369	Nguyen	Unfinished Business
+	SB 386	Newman	Unfinished Business
+	SB 387	Dodd	Unfinished Business
+	SB 401	Limón	Unfinished Business
+	SB 407	Wiener	Unfinished Business
+	SB 420	Becker	Unfinished Business
+	SB 429	Bradford	Unfinished Business
+	SB 444	Newman	Unfinished Business
+	SB 452	Blakespear	Unfinished Business
+	SB 474	Becker	Unfinished Business
+	SB 482	Blakespear	Unfinished Business
+	SB 485	Becker	Unfinished Business
+	SB 496	Limón	Unfinished Business
+	SB 500	McGuire	Unfinished Business
+	SB 520	Seyarto	Unfinished Business
+	SB 531	Ochoa Bogh	Unfinished Business
+	SB 539	Stern	Unfinished Business
+	SB 544	Laird	Unfinished Business
+	SB 565	Caballero	Unfinished Business
+	SB 578	Ashby	Unfinished Business
+	SB 582	Becker	Unfinished Business
	SB 601	McGuire	Unfinished Business
	SB 613	Seyarto	Unfinished Business
+	SB 627	Smallwood-Cuevas	Unfinished Business
+	SB 628	Hurtado	Unfinished Business

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
+	SB 635	Menjivar	Unfinished Business
+	SB 639	Limón	Unfinished Business
+	SB 661	Bradford	Unfinished Business
+	SB 665	Allen	Unfinished Business
+	SB 671	Portantino	Unfinished Business
+	SB 673	Bradford	Unfinished Business
+	SB 681	Allen	Unfinished Business
+	SB 686	Durazo	Unfinished Business
+	SB 695	Gonzalez	Unfinished Business
+	SB 700	Bradford	Unfinished Business
+	SB 717	Stern	Unfinished Business
	SB 722	Ochoa Bogh	Unfinished Business
+	SB 723	Durazo	Unfinished Business
+	SB 747	Caballero	Unfinished Business
+	SB 751	Padilla	Unfinished Business
+	SB 770	Wiener	Unfinished Business
+	SB 779	Stern	Unfinished Business
+	SB 791	McGuire	Unfinished Business
+	SB 799	Portantino	Unfinished Business
+	SB 806	Archuleta	Unfinished Business
+	SB 814	Roth	Unfinished Business
+	SB 816	Roth	Unfinished Business
+	SB 842	Bradford	Unfinished Business
	SB 844	Jones	Unfinished Business
+	SB 847	Dahle	Unfinished Business
+	SB 848	Rubio	Unfinished Business
+	SB 857	Laird	Unfinished Business
+	SB 872	Min	Unfinished Business
	SB 890	Committee on Governance and Finance	Unfinished Business
	SCA 1	Newman	Senate Bills - Third Reading File
	SCA 2	Stern	Senate Bills - Third Reading File
	SCR 72	Min	Unfinished Business
	SCR 87	Dahle	Senate Bills - Third Reading File
	AB 50	Wood	Assembly Bills - Third Reading File
	AB 88	Sanchez	Assembly Bills - Third Reading File
+	AB 96	Kalra	Assembly Bills - Third Reading File
	AB 297	Vince Fong	Assembly Bills - Third Reading File
	AB 309	Lee	Assembly Bills - Third Reading File
+	AB 389	Ramos	Assembly Bills - Third Reading File
	AB 436	Alvarez	Assembly Bills - Third Reading File
	AB 531	Irwin	Assembly Bills - Third Reading File
	AB 647	Holden	Assembly Bills - Third Reading File
	AB 829	Waldron	Assembly Bills - Third Reading File
	AB 918	Garcia	Assembly Bills - Third Reading File
	AB 988	Mathis	Assembly Bills - Third Reading File
	AB 1065	Jim Patterson	Assembly Bills - Third Reading File
	AB 1207	Irwin	Assembly Bills - Third Reading File
+	AB 1228	Holden	Assembly Bills - Third Reading File
+	AB 1291	McCarty	Assembly Bills - Third Reading File
	AB 1317	Wendy Carrillo	Assembly Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
+	AB 1373	Garcia	Assembly Bills - Third Reading File
	AB 1420	Berman	Assembly Bills - Third Reading File
	AB 1505	Rodriguez	Assembly Bills - Third Reading File
	AB 1734	Jones-Sawyer	Assembly Bills - Third Reading File
	AB 1741	Waldron	Assembly Bills - Third Reading File
+	ACA 1	Aguiar-Curry	Assembly Bills - Third Reading File
+	ACA 13	Ward	Assembly Bills - Third Reading File
	ACR 84	Wendy Carrillo	Assembly Bills - Third Reading File
	ACR 86	Kalra	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 10
Author: Cortese (D), et al.
Amended: 9/7/23
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 3/22/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas, Wilk

SENATE HEALTH COMMITTEE: 11-0, 4/12/23
AYES: Eggman, Nguyen, Glazer, Gonzalez, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/30/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Pupil health: opioid overdose prevention and treatment: Melanie's Law

SOURCE: California Consortium of Addiction Programs and Professionals
County of Santa Clara
Santa Clara County Office of Education

DIGEST: This bill requires school safety plans of schools, including charter schools, serving students in grades seven to 12 to include a protocol for responding to a student's opioid overdose; requires the California Department of Education (CDE) to post informational materials on its website on opioid overdose prevention; and encourages county offices of education (COEs) to establish working groups on fentanyl education in schools.

Assembly Amendments:

1) Specify the grade range in which schools must include in their school safety plan a protocol in the event a pupil is suffering or is reasonably believed to be suffering from an opioid overdose;

2) Eliminate the State Group on Fentanyl Education in Schools and instead encourages COE to establish a County Working Group on Fentanyl Education;

3) Require the CDE to curate and maintain on its internet website in formation and resource developed by County Working Group on Fentanyl Education;

4) Define "Opioid antagonist" as naloxone hydrochloride or another drug approved by the federal Food and Drug Administration that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body, and has been approved for the treatment of an opioid overdose; and

5) Add double-jointing language to avoid chaptering out issues with AB 1604 (Bonta, 2023), SB 323 (Portantino, 2023), and SB 671 (Portantino, 2023).

ANALYSIS:

Existing law:

1) Permits a school nurses or trained personnel who have volunteered to provide emergency naloxone hydrochloride or another opioid antagonist, by nasal spray or by auto-injector, to persons suffering, or reasonably believed to be suffering, from an opioid overdose. (Education Code (EC) § 49414.3(a))

2) Requires the Superintendent of Public Instruction (SPI) to establish, and revise every five years or sooner, minimum standards of training for the administration of naloxone hydrochloride or another opioid antagonist as specified. The CDE shall maintain a clearinghouse for best practices in

training nonmedical personnel to administer naloxone hydrochloride or another opioid antagonist to pupils. (EC § 49414.3(e))

3) Requires an the local education agency (LEA), COE, or charter school electing to utilize naloxone hydrochloride or another opioid antagonist for emergency aid to ensure that each employee who volunteers are provided defense and indemnification by the LEA, COE, or charter school for any and all civil liability. Provides that this information shall be reduced to writing, provided to the volunteer, and retained in the volunteer's personnel file. (EC 49414.3(i))

4) Provides a school no more than two weeks to restock their supply of naloxone hydrochloride or another opioid antagonist after use. (EC § 49414.3(h))

5) Provides that, if a school district, charter school, or private school elects to offer an athletic program, the school district, charter school, or private school shall annually give the Opioid Factsheet for Patients published by the Centers for Disease Control and Prevention to each athlete. Provides that the athlete and, if the athlete is 17 years of age or younger, the athlete's parent or guardian shall sign a document acknowledging receipt of the Opioid Factsheet for Patients and return that document to the school district, charter school, or private school before the athlete initiates practice or competition. Povides that the Opioid Factsheet for Patients may be sent and returned through an electronic medium, including, but not limited to, fax or email. (EC § 49476)

6) Requires each LEA and COE to be responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 through 12. (EC § 32281(a))

7) Specifies that the schoolsite council or a school safety planning committee is responsible for developing the comprehensive school safety plan. (EC § 32281(b))

8) Specifies that the comprehensive school safety plan must include an assessment of the current status of school crime committed on school campuses and at school-related functions and identification of appropriate strategies and programs to provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, including child abuse reporting procedures; disaster procedures; an earthquake emergency procedure system; policies regarding pupils who commit specified acts that would lead to suspension or expulsion;

procedures to notify teachers of dangerous pupils; a discrimination and harassment policy; the provisions of any schoolwide dress code; procedures for safe ingress and egress of pupils, parents, and school employees to and from school; a safe and orderly environment conducive to learning; and rules and procedures on school discipline. (EC § 32282(a))

9) Requires the comprehensive school safety plan to be evaluated at least once a year. (EC § 32282(d))

10) Permits a licensed health care provider who is authorized by law to prescribe an opioid antagonist may issue standing orders for the distribution of an opioid antagonist to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist a person at risk of an opioid-related overdose. (Civil Code § 1747.22(c))

This bill:

1) Requires comprehensive school safety plans of schools serving students in grades 7 to 12 to include a protocol in the event a student is suffering or is reasonably believed to be suffering from an opioid overdose.

2) Requires charter school safety plans of schools serving students in grades seven to 12 to include a protocol in the event a student is suffering or is reasonably believed to be suffering from an opioid overdose.

3) Encourages COEs to establish County Working Groups on Fentanyl Education in Schools to conduct outreach, build awareness, and collaborate with local health agencies regarding fentanyl overdoses.

4) Requires the CDE to curate, and maintain on its website, informational materials on opioid overdose prevention as well as any relevant information developed by a County Working Group on Fentanyl Education in Schools.

Comments

1) *Need for the bill.* According to the author, "Fentanyl was responsible for an astounding one in five youth deaths, ages 15-to-24, in California last year. In one year alone (2019-2020), fentanyl overdoses among youth nearly doubled and we have seen that trend continue to increase. This drug can be found in fake and counterfeit pills that are sold through social media or e-commerce platforms, making them available to youth. SB 10 will expand statewide

prevention and education efforts to combat the skyrocketing overdoses and fentanyl-related deaths that have plagued youth statewide."

2) *California Department of Public Health (CPDH) Statewide Standing Order for Naloxone*. Naloxone can help reduce opioid overdose deaths in California, but many organizations find it difficult to obtain the required standing order to obtain naloxone from health care providers. According to CDPH, of the 6,843 opioid-related overdose deaths in 2021, 5,722 were related to fentanyl. CDPH issued the standing order, in 2017, to address this need and support equitable naloxone access. The standing order:

   a) Allow community organizations and other entities in California that are not currently working with a physician, to distribute naloxone to a person at risk of an opioid-related overdose or to a family member, friend, or other person in a position to assist; and

   b) Allow for the administration of naloxone by a family member, friend, or other person to a person experiencing or reasonably suspected of experiencing an opioid overdose.

   Among the organizations and entities that can distribute naloxone under the order are colleges and universities. An individual at risk of experiencing an overdose or someone who can assist an individual at risk is allowed to do so. Under the statewide standing order, staff of community organizations and other entities distributing naloxone must be trained. They are also required to provide training to individuals who receive naloxone from them. Colleges and other organizations may apply to use the statewide standing order if they meet certain conditions.

   A separate distribution program administered through The Department of Health Care Services (DHCS) allows universities and colleges to apply for and obtain naloxone at no cost to the institution. According to the CDPH website, since October 2018, their Naloxone Distribution Project (NDP) has distributed over 1 million units of naloxone, and recorded over 57,000 overdose reversals.

3) *Addressing Fentanyl Among California Youth.* According to CDPH, fentanyl-related overdose deaths increased 625 percent among ages 10-19 from 2018 to 2020. In 2021, there were 224 fentanyl-related overdose deaths among teens ages 15–19 years old in California. Pursuant to Chapter 55, Statutes of 2016 (AB 1748), among other things, requires the SPI to establish minimum training standards for school employees who volunteer to administer naloxone or

another opioid antagonist. In addition to setting minimum training standards, the CDE must maintain on its website a clearinghouse for best practices in training nonmedical personnel to administer naloxone or another opioid antagonist to pupils.

The CDE, in conjunction with the CDPH, provide LEAs with resources and information that they can readily share with parents and students to help keep them safe. The shareable Fentanyl Awareness and Prevention toolkit page offer information about the risks of fentanyl and how to prevent teen use and overdoses. In addition to the toolkit, the CDPH's Substance and Addiction Prevention branch also provides resources for parents, guardians, caretakers, educators, schools, and youth-serving providers.

LEAs and COEs have also adjusted to address this growing crisis. For example, the Lake County Office of Education and Washington Unified School District in West Sacramento recently implemented a local school naloxone policy consistent with state statutes. San Diego Unified School District created its naloxone toolkit to aid other LEAs and inform parents and guardians.

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

According the Assembly Appropriations Committee analysis,

"One-time General Fund costs of $196,000 to CDE for staff to establish the workgroup and develop materials. One-time General Fund costs in the low hundreds of thousands of dollars to HHS to delegate this bill's responsibilities to the Department of Health Care Services for staff to implement the requirements of this bill. Ongoing Proposition 98 General Fund costs, potentially in the tens of thousands of dollars annually to low hundreds of thousands of dollars annually, for LEAs to provide written notifications. California has about six million students. Assuming printing costs of between $0.01 and $0.03 per notification, costs would be between $60,000 and $180,000 annually. Costs could be lower to the extent the information for the notification is added to AB 889's notification requirement. If the Commission on State Mandates determines the bill's requirements to be a reimbursable state mandate, the state would need to reimburse these costs to LEAs or provide funding through the K-12 Mandate Block Grant."

SUPPORT: (Verified 9/13/23)

California Consortium of Addiction Programs and Professionals (co-source)
County of Santa Clara (co-source)
Santa Clara County Office of Education (co-source)
State Superintendent of Public Instruction Tony Thurmond
ACLU California Action
Alameda County Office of Education
Anaheim Lighthouse
Arcadia Police Officers' Association
Bay Area Psychological Association
Bill Wilson Center
Bold Recovery
Burbank Police Officers' Association
California Alliance for State Advocacy
California Association for Health, Physical Education, Recreation & Dance
California Association of Student Councils
California Coalition of School Safety Professionals
California Federation of Teachers
California Psychological Association
California School Nurses Organization
California Society of Addiction Medicine
California Teachers Association
California Tribal Business Alliance
Claremont Police Officers Association
Community Social Model Advocates, Inc.
Corona Police Officers Association
Culver City Police Officers' Association
Depression and Bipolar Support Alliance
Deputy Sheriffs' Association of Monterey County
First Responder Health
Fred Brown's Recovery Services, INC.
Fullerton Police Officers' Association
Govern for California
Health Officers Association of California
Healthier Kids Foundation
Los Angeles County Office of Education
Los Angeles School Police Officers Association
McAlister Institute
Mental Health Services Oversight and Accountability Commission
Murrieta Police Officers' Association

Native American Training Institute
Newport Beach Police Association
Orange County Recovery Collaboration
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Recovery Advocacy Project California
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association
Santa Clara County School Boards Association
Sister Warriors Freedom Coalition
Steinberg Institute
Tarzana Treatment Centers
The Purpose of Recovery
The Turning Point Home
Upland Police Officers Association

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to the Santa Clara County Office of Education (SCCOE), "Fentanyl is now responsible for one in five deaths among California youths aged 15-to-24 years old. In Santa Clara alone, fentanyl overdose deaths increased by 1000% between 2018 and 2021, from 11 to 106 deaths. Tragically, many of these deaths are children or young adults who are unaware that the drug they are ingesting contains fentanyl and/or ignorant of the severe risk that fentanyl poses. The SCCOE has partnered with the County of Santa Clara, the Santa Clara County Behavioral Health Services, and the Santa Clara County Opioid Overdose Prevention Project to lead a multipronged approach to fentanyl prevention and education in which schools both raise awareness of the drugs dangers while also ensuring that schools have life-saving opioid reversal medication at school sites. This program launched less than a year ago and has already been used successfully to save multiple students' lives. SB 10 builds upon the successful model established in Santa Clara by providing a state framework that will help ensure students and school staff have access to educational and training resources needed to prevent future fentanyl poisoning and overdoses. This bill is complimentary to the Governor's January Budget proposal to provide

funding for opioid reversal kits to all middle and high schools and would provide critical training resources to help with implementation."

Prepared by: Kordell Hampton / ED. / (916) 651-4105
9/13/23 20:52:53

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

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

UNFINISHED BUSINESS

Bill No: SB 18
Author: McGuire (D), et al.
Amended: 7/13/23
Vote: 21

SENATE HOUSING COMMITTEE: 10-0, 4/18/23
AYES: Wiener, Ochoa Bogh, Blakespear, Caballero, Cortese, McGuire, Seyarto, Skinner, Umberg, Wahab
NO VOTE RECORDED: Padilla

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 4/25/23
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Jones, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Housing programs: Tribal Housing Reconstitution and Resiliency Act

SOURCE: Author

DIGEST: This bill creates a new tribal housing program, the Tribal Housing Grant Program (THGP), in the Department of Housing and Community

Development (HCD) for the construction and rehabilitation of rental and for-sale housing.

Assembly Amendments remove an exemption to the Administrative Procedures Act for HCD in issuing any rule, policy, or standard of general application under the THGP.

ANALYSIS:

Existing law authorizes HCD to modify or waive various requirements of any state financing being provided to a housing development by the department in specified situations, if tribal law, tribal governance, tribal charter, or difference in tribal entity or agency legal structure would cause a violation or not satisfy the requirements for the financing.

This bill:

1) Creates the Tribal Housing Grant Program Trust Fund (Fund), administered by HCD. The Fund, upon annual appropriation, allocates as follows:

    a) 80% on an entitlement basis for a federally recognized Indian reservation or Rancheria, in the form of multipurpose block grants for housing and housing-related planning, program, project predevelopment, operating subsidies, staffing, and administrative activities, as specified;

    b) 15% on a competitive basis for a federally recognized Indian reservation, Rancheria, or tribally designated housing entity for the construction, reconstruction, rehabilitation, or acquisition and rehabilitation of housing and infrastructure improvements, as specified; and

    c) 5% for technical assistance to eligible tribes and tribally designated housing entities for capacity building.

2) Requires recipients to submit an annual plan and report to HCD to track uses and expenditures.

3) Authorizes HCD to adopt guidelines to implement THGP.

4) Authorizes the funds to be allocated for the following purposes:

a) Housing and housing-related program services for affordable housing (*e.g.*, home buyer assistance, homeowner rehabilitation, housing and credit counseling, renal assistance, energy retrofits, wrap-around services, etc.)

b) Housing and community development project costs (*e.g.*, acquisition, new construction, reconstruction, rehabilitation, or conversion of affordable housing, site preparation, etc.)

c) Management services for affordable housing (*e.g.*, loan processing, inspections, tenant selection, etc.)

d) Administration costs

5) Requires the funds to be allocated only for Indian and essential families and individuals in an Indian area, or lower income households residing in an Indian area, as defined.

6) Requires award recipients to expend all program funds within 3 years from the date of execution of an agreement with HCD, and to expend all funds allocated to projects within 5 years from the date of execution of an agreement with HCD, unless granted an extension by HCD, as specified.

7) Requires moneys paid and deposited into the Fund be continuously appropriated on an annual basis for a 5-year period starting January 1, 2024, through December 31, 2028.

Background

California has 109 federally recognized tribes including nearly 100 small reservations and Rancherias spread out across the state. Nearly 360,500 Californians identify in whole or part as American Indian and/or Native American.

The rate of tribal poverty is more than twice that of the rest of California's population and one third of tribal residents live below the federal poverty rate. California also differs from other states because the U.S. government only holds a small percentage of California tribes' land in trust.

For decades, tribal communities have been excluded from benefiting from state-administered housing programs. Over time, this led to disparities in access to safe, affordable housing among tribal communities in California. To improve

communication and consideration of the needs of tribes, Governor Edmund "Jerry" Brown issued Executive Order (EO) B-10-11 in 2011. This order established the Governor's Office of the Tribal Advisor and requires all state agencies and departments to encourage early consideration, communication, and consultation with tribes when developing legislation, guidelines, regulations, rules, or policies on matters that affect tribes and their communities.

In 2019, Governor Gavin Newsom issued EO N-15-19, which reaffirmed the previous executive order and added a formal apology to California's First Nations for atrocities committed by the State against tribal communities during early statehood. This marked a major step forward in California's commitment to acknowledge past wrongdoings and build relationships with tribes. The work to document the historical relationship between California's First Nations and the State as well as to recommend paths forward continues through the California Truth & Healing Council.

Comments

1) *Author's statement.* "For far too long California tribes weren't eligible for state funding despite the fact that tribes are disproportionally represented among the state's homeless and have higher rates of poverty, overcrowded and substandard homes, than any other population. Even now, tribal governments struggle to meet the requirements for housing grants because these programs are not set up to meet the needs of tribal communities. The golden state must end this injustice and advance funding that is diversified and has the ability to address the unique needs of California tribal governments."

2) *Funding for Indian reservations and Rancherias.* HCD previously operated a program to provide technical assistance to Indian reservations and Rancherias in planning for affordable housing, but it was not funded beyond 2006.

   A bill passed in 2019, AB 1010 (Eduardo Garcia, Chapter 660), required HCD to provide technical assistance to tribal housing authorities, housing sponsors, and governmental agencies on reservations, Rancherias, and on public domain to facilitate the planning and orderly development of suitable, decent, safe, and sanitary housing for tribes residing in those areas.

3) *The Problem.* Since 2014, only 13 out of 109 tribes have been awarded State funds for housing and housing-related services. Generally larger tribes have been awarded funds, as other tribes don't have the same resources—(*i.e.*, tribes

typically do not have the staff capacity that other governments have and lack the financial resources in order to attract and retain long-term housing program and project staff with experience accessing the state's complex housing programs). These awards have funded the development of 441 homes.

Despite passage of AB 1010, which made tribes eligible for most state housing programs, tribes and tribally designated housing entities still face serious structural obstacles to accessing and competing in these programs, such as AHSC, which requires applicants to have at least 10 years of experience developing housing of a similar size. These state programs have only been available to tribes since 2019; therefore they cannot meet the experience requirements (most tribes access federally-funded housing programs which focus on single family housing and home ownership).

Existing housing programs also conflict with tribal sovereignty, laws, and culture, which requires time-consuming waivers from program rules. Current programs do not fit tribal needs and conditions.

This bill addresses these challenges by creating a new and separate housing program specific to tribal needs, subject to appropriation in the Budget Act. No funding was included in this year's budget for this program. THPG would act as a block grant and allow funds to be used for a wide variety of housing, homeownership, and homelessness activities. The author and sponsors point out that the THGP is modeled after federal Indian Housing programs and state programs like the Joe Serna, Jr. Farmworker Housing Grant Program, which deliberately provide more flexibility than other housing programs due to the special populations served.

Related/Prior Legislation

AB 371 (Eduardo Garcia, 2023) creates a Tribal Housing Advisory Committee in the Business, Consumer Services, and Housing Agency. The bill is on the Assembly Floor.

AB 1010 (Eduardo Garcia, Chapter 660, Statutes of 2019) made the governing body of Indian reservations and Rancherias eligible to receive funding from various state affordable housing programs.

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

According to the Assembly Appropriations Committee:

- Ongoing General Fund cost pressures, at least in the tens of millions, and likely exceeding $100 million annually, to provide grant funding for the THGP.

- HCD estimates ongoing General Fund (GF) costs of at least $1 million and potentially in the low millions annually for dedicated staff to develop and administer the THGP. Specific duties include coordination with specified tribal stakeholders, developing and adopting guidelines, issuing notices of funding availability, providing technical assistance, reviewing applications, awarding funds under the three program components, and conducting ongoing compliance monitoring. These costs would only be incurred to the extent funding is appropriated for the program and the ultimate ongoing staffing needs would be partially dependent upon the amount of funding provided for the program.

SUPPORT: (Verified 9/13/23)

All Mission Indian Housing Authority
Big Pine Paiute Tribe of The Owens Valley
Big Valley Band of Pomo Indians
Cahto Tribe of The Laytonville Rancheria
California Coalition for Rural Housing
California Housing Partnership Corporation
California Tribal Business Alliance
Campo Band of Mission Indians
Cher-Ae Heights Indian Community of The Trinidad Rancheria
City of Sacramento
County of Mendocino
Dry Creek Rancheria Band of Pomo Indians
Fort Independence Indian Community
Guidiville Rancheria of California
Habematolel Pomo of Upper Lake
Habitat for Humanity, Merced/Stanislaus County
Housing California
Manchester Point Arena Band of Pomo Indians
Middletown Rancheria of Pomo Indians of CA
Mosaic Urban Development, LLC
Non-profit Housing Association of Northern California (NPH)

North Fork Rancheria Indian Housing Authority
Northern Circle Indian Housing Authority
Pala Housing Resource Center
Rincon Band of Luiseño Indians
Round Valley Indian Housing Authority
Rural Communities Housing Development Corporation
Rural Community Assistance Corporation (RCAC)
Scotts Valley Band of Pomo Indians
Sherwood Valley Band of Pomo Indians
Supervisor Jaron Brandon, County of Tuolumne District 5
Tule River Tribe
Wilton Rancheria
Yurok Tribe

OPPOSITION: (Verified 9/13/23)

None received

Prepared by: Mehgie Tabar / HOUSING / (916) 651-4124
9/13/23 20:59:51

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

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

UNFINISHED BUSINESS

Bill No: SB 19
Author: Seyarto (R), et al.
Amended: 9/7/23
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 3/14/23
AYES: Wahab, Bradford, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Fentanyl Misuse and Overdose Prevention Task Force

SOURCE: Author

DIGEST: This bill establishes, upon an appropriation by the Legislature, the Anti-Fentanyl Abuse Task Force to evaluate the nature and extent of fentanyl abuse in the state and to develop policy recommendations for addressing it.

Assembly Amendments rename the task force to the Fentanyl Misuse and Overdose Prevention Task Force; add xylazine to the substances covered; change the term "abuse" to "misuse" throughout the bill; and make changes to the responsibilities of the task force, the timelines in the bill, and composition of the task force to conform the language in this bill to AB 33 (Bains, 2023).

ANALYSIS:

Existing law:

1) Establishes the California Uniform Controlled Substances Act, which regulates controlled substances. (Health & Saf. Code, § 11000 et seq.)

2) Classifies controlled substances into five schedules according to their danger and potential for abuse. (Health & Saf. Code, §§ 11054-11058.)

3) Classifies fentanyl as a Schedule II controlled substance. (Health & Saf. Code, § 11055, subd.(c)(8).)

This bill:

1) Establishes, upon an appropriation by the Legislature, the Anti-Fentanyl Abuse Task Force to do the following:

    a) Collect and organize data on the nature and extent of fentanyl abuse in California.

    b) Examine collaborative models between government and nongovernmental organizations for protecting persons who misuse fentanyl or other illicit substances that may contain fentanyl, and develop policy recommendations on the implementation of evidence-based practices to reduce fentanyl overdoses, including, without limitation, overdose prevention centers, fentanyl testing strip distribution, and access to overdose reversal treatments.

    c) Measure and evaluate the progress of the state in preventing fentanyl abuse and death from the intentional use of fentanyl or the unintentional use of illicit substances containing fentanyl, protecting and providing assistance to persons who misuse fentanyl or other illicit substances that may contain fentanyl, and prosecuting persons engaged in the illegal manufacture, sale, and trafficking of fentanyl.

    d) Evaluate approaches to increase public awareness of fentanyl abuse.

    e) Analyze existing statutes for their adequacy in addressing fentanyl abuse and, if the analysis determines that those statutes are inadequate,

recommend revisions to those statutes or the enactment of new statutes that specifically define and address fentanyl abuse.

f) Consult with governmental and nongovernmental organizations in developing recommendations to strengthen state and local efforts to prevent fentanyl abuse and death from the intentional use of fentanyl or the unintentional use of illicit substances containing fentanyl, protect and assist persons who misuse fentanyl or other illicit substances that may contain fentanyl, and prosecute individuals engaged in the illegal manufacture, sale, and trafficking of fentanyl.

2) Provides that the task force is chaired by the Attorney General or their designee. Requires the Department of Justice to provide staff and support for the task force, to the extent that resources are available.

3) Provides that the members of the task force serve at the pleasure of the respective appointing authority. Provides that reimbursement of necessary expenses may be provided at the discretion of the respective appointing authority or agency participating in the task force.

4) Provides that the task force be comprised of the following representatives or their designees:

a) The Attorney General.

b) The Chairperson of the Judicial Council of California.

c) The Director of the State Department of Public Health.

d) The Director of the State Department of Health Care Services.

e) One Member of the Senate, appointed by the Senate Rules Committee.

f) One Member of the Assembly, appointed by the Speaker of the Assembly.

g) One representative from the California District Attorneys Association.

h) One representative from the California Public Defenders Association.

i) One representative from the California Hospital Association.

j) One representative from the County Health Executives Association of California.

k) Three representatives of law enforcement, one selected by the California State Sheriffs' Association, one selected by the California Police Chiefs' Association, and one selected by the Department of the California Highway Patrol.

l) One representative from a community organization representing persons suffering from opioid use disorder, appointed by the Governor.

m) One university researcher and one mental health professional, appointed by the Governor.

n) One representative from an organization that provides services to homeless individuals and one representative from an organization that serves persons who misuse fentanyl or other illicit substances that may contain fentanyl in southern California, appointed by the Speaker of the Assembly.

o) One representative from an organization that provides services to homeless individuals and one representative from an organization that serves persons who misuse fentanyl or other illicit substances that may contain fentanyl in northern California, appointed by the Senate Rules Committee.

p) One person in recovery from fentanyl or opioid abuse, and one person who has lost a family member to a fatal fentanyl overdose, appointed by the Governor.

5) Provides that whenever possible, members of the task force have experience providing services to persons who misuse fentanyl or other illicit substances that may contain fentanyl or have knowledge of fentanyl abuse issues.

6) Specifies that the task force meet at least once every two months. Provides that subcommittees may be formed and meet as necessary, and that all meetings are open to the public. Provides that the first meeting of the task force be held no later than March 1, 2024.

7) Requires the task force to report its findings and recommendations to the Governor, the Attorney General, and the Legislature on or before July 1, 2025.

Provides that at the request of any member, the report may include minority findings and recommendations.

8) Provides that the report be submitted in compliance with Section 9795 of the Government Code.

9) Provides that for the purposes of this section, "fentanyl abuse" means the use of fentanyl or products containing fentanyl in a manner or with a frequency that negatively impacts one or more areas of physical, mental, or emotional health.

10) Includes a sunset provision and specifies that the provisions of this bill only remain in effect until January 1, 2026, and are repealed thereafter.

Background

The number of deaths involving fentanyl in California has increased dramatically in recent years. Between 2012 and 2018, fentanyl overdose deaths increased by more than 800%—from 82 to 786. (CDPH, Overdose Prevention Initiative <https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/SACB/Pages/PrescriptionDrugOverdoseProgram.aspx?msclkid=99f1af92b9e411ec97e3e1fe58cde884 [last visited Mar. 7, 2023].) In 2021, there were 5,961 deaths related to fentanyl overdoses. (CDPH, California Overdose Surveillance Dashboard <https://skylab.cdph.ca.gov/ODdash/?tab=Home [last visited Mar. 7, 2023]).

In order to address the ongoing fentanyl crisis, this bill establishes the Anti-Fentanyl Abuse Task Force to do a number of things, including collect data on the nature and extent of fentanyl abuse in the state, develop policy recommendations on the implementation of evidence-based practices to reduce fentanyl overdoses, evaluate the progress of the state in preventing fentanyl abuse and death from the intentional use of fentanyl or the unintentional use of illicit substances containing fentanyl, evaluate approaches to increase public awareness of fentanyl abuse, and analyze existing statutes for their adequacy in addressing fentanyl abuse and recommend revisions to those statutes or the enactment of new statutes that specifically define and address fentanyl abuse if the analysis determines that those statutes are inadequate. The task force includes 22 members, including the Attorney General, Director of the Department of Public Health, Director of the Department of Health Care Services, representatives of law enforcement organizations, an individual in recovery from fentanyl or opioid abuse, a mental health professional, and representatives of organizations that provide services to

homeless individuals and individuals who misuse fentanyl or other illicit substances that may contain fentanyl, among others.

This bill specifies that the task force meet at least once every two months and that the first meeting of the task force be held by March 1, 2024. The task force must report its findings and recommendations to the Governor, the Attorney General, and the Legislature by July 1, 2025. The provisions of this bill sunset on January 1, 2026.

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

According to the Assembly Appropriations Committee:

The Department of Justice (DOJ) estimates General Fund costs of $2.57 million in fiscal year (FY) 2023-24, $4.54 million in FY 2024-25, and $2.44 million in FY 2025-26 to fund 18 new limited-term positions to conduct research; provide legal advice and assistance on Open Meeting-related matters; analyze existing statutes and recommendations to strengthen state and local efforts to prosecute individuals engaged in the illegal manufacture, sale, and trafficking of fentanyl; examine collaborative models for protecting victims of fentanyl abuse; measure and evaluate the progress of the state in preventing fentanyl abuse; protect and assist victims of fentanyl abuse; and evaluate approaches to increase public awareness of fentanyl abuse. The estimate also includes costs for consultants, legal experts and witnesses, travel, and printing.

SUPPORT: (Verified 9/11/23)

Arcadia Police Officers' Association
Association of California School Administrators
Burbank Police Officers' Association
California Coalition of School Safety Professionals
California Hospital Association
California State Sheriffs' Association
City of Placentia
Claremont Police Officers Association
Corona Police Officers Association
County Health Executives Association of California
Culver City Police Officers' Association
Fullerton Police Officers' Association
Inglewood Police Officers Association
Los Angeles School Police Officers Association

Newport Beach Police Association
Orange County District Attorney
Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Upland Police Officers Association

OPPOSITION: (Verified 9/11/23)

Drug Policy Alliance

Prepared by: Stephanie Jordan / PUB. S. /
9/13/23 20:47:27

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

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

UNFINISHED BUSINESS

Bill No: SB 33
Author: Glazer (D)
Amended: 9/5/23
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 6-0, 3/29/23
AYES: Limón, Niello, Caballero, Min, Nguyen, Portantino
NO VOTE RECORDED: Bradford

SENATE JUDICIARY COMMITTEE: 10-0, 4/11/23
AYES: Umberg, Wilk, Allen, Ashby, Durazo, Laird, McGuire, Min, Niello, Wiener
NO VOTE RECORDED: Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 5/11/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Grove

ASSEMBLY FLOOR: Not available

SUBJECT: Commercial financing: disclosures

SOURCE: Author

DIGEST: This bill removes a sunset provision that applies to a requirement to disclose the cost of a commercial financing transaction expressed as an annualized rate. The requirement is scheduled to sunset on January 1, 2024. By removing the

sunset, this bill requires commercial financing providers to provide the specified disclosure indefinitely.

Assembly Amendments make technical and clarifying changes.

ANALYSIS:

Existing law:

1) Establishes disclosure requirements related to commercial financing. (Division 9.5 of the Financial Code, commencing with Section 22800)

2) Defines "commercial financing" as an accounts receivable purchase transaction, including factoring, asset-based lending transaction, commercial loan, commercial open-end credit plan, or lease financing transaction intended by the recipient for use primarily for other than personal, family, or household purposes. (Financial Code Section 22800 (d))

3) Defines "recipient" as a person who is presented a specific commercial financing offer by a provider that is equal to or less than $500,000. (Financial Code Section 22800 (n))

4) Requires a provider of commercial financing to disclose the following information to a recipient at the time of extending a specific commercial financing offer to that recipient:

    a) The total amount of funds provided.

    b) The total dollar cost of the financing.

    c) The term or estimated term.

    d) The method, frequency, and amount of payments.

    e) A description of prepayment penalties.

    f) Until January 1, 2024, the total cost of the financing expressed as an annualized rate. (Financial Code Section 22802)

5) Allows a provider of commercial financing that is factoring or asset-based lending to offer, in lieu of 4) above, the following:

a) An agreement that generally describes the general terms and conditions of the commercial financing transaction that will occur under the agreement, and

b) The same information as described in b) – f) of 4) above based on an example transaction that could occur under the general agreement for a given amount of accounts receivable. (Financial Code Section 22803)

6) Requires the Department of Financial Protection and Innovation (DFPI) to adopt regulations governing the disclosures described in 4) and 5) above, including when providers may disclose an estimated annualize rate and how such an estimate shall be calculated. (Financial Code Section 22804)

7) Subjects providers licensed under the California Financing Law to examination and enforcement by DFPI for any violation of the disclosure requirements. (Financial Code Section 22805)

8) Exempts specified entities, including depository institutions, or transactions from the disclosure requirements. (Financial Code Section 22801)

9) Provides, pursuant to 6) above, regulations that specify in detail how the disclosure requirements apply to the range of commercial financing products included in 2) above. The regulations became effective on December 9, 2022. (Title 10, Chapter 3 of the California Code of Regulations, Subchapter 3 commencing with Section 900)

This bill:

1) Removes the sunset provision of January 1, 2024, that applies to the disclosure of the total cost of financing expressed as an annualized rate and makes conforming changes.

2) Provides that the commercial financing disclosure law does not impose any liability on a provider as a result of the actual annual percentage rate (APR) charged by a provider differing from the Estimated APR disclosed in conformity with any regulation, order, or written interpretive opinion of the commissioner or any such opinion of the Attorney General, as specified.

Background

1) *SB 1235*. This bill seeks to maintain a requirement that disclosures related to certain commercial financing transactions continue to include the cost of financing expressed as an annualized rate. The requirement was enacted by a

provision contained in SB 1235 (Glazer, Chapter 1011, Statutes of 2018), which established a first-in-the-nation disclosure framework that applies to a variety of financing products offered to small business borrowers. Under existing law, the annualized rate will no longer be required as part of the disclosure as of January 1, 2024. Other information, such as the total amount of financing, the dollar cost of financing, and the method, frequency, and amount of payments, remains in the law indefinitely.

Despite SB 1235 being enacted in 2018, providers of commercial financing who are subject to the law were not required to provide the disclosures until the DFPI adopted final regulations required by SB 1235. After SB 1235's passage, the DFPI provided stakeholders three informal opportunities to comment in writing about the proposed commercial financing disclosure regulations, followed by six additional opportunities to comment on the regulations during the formal rulemaking process. The DFPI incorporated extensive revisions to improve the proposed regulations based upon stakeholder input during this process. DFPI adopted final regulations on June 9, 2022, with an effective date of December 9, 2022, for providers to comply with the regulations. Therefore, even though the initial bill was signed on September 30, 2018, the law was effectively on hold until December 9, 2022.

2) *Motivation for Annualized Rate Disclosure*

Small businesses face a diverse, but often confusing, array of financing options that are difficult to compare. Moreover, some financing options impose significant costs on small business borrowers with annualized rates exceeding 100%. Accion Opportunity Fund, a non-profit headquartered in San Jose that provides financial support for small businesses, found the following in their research of alternative financing providers.[1]

- The average alternative financing product analyzed carried a 94% APR, with the maximum APR reaching 358%.

- The average monthly loan payment for businesses in the dataset was nearly double the net income available to their owner(s), severely hampering an owner's ability to expand a business or hire new employees, and drastically undermining the long-term viability of an enterprise.

[1] https://aofund.org/app/uploads/2021/03/Unaffordable-and-Unsustainable-The-New-Business-Lending-on-Main-Street_Opportunity-Fund-Research-Report_May-2016.pdf

- Among the businesses that Opportunity Fund was able to refinance out of higher cost financing, monthly payments fell by more than 60% and APR dropped by an average of 85%. Those savings represent critically needed cash flow for many small businesses, but especially those struggling to survive or expand.

In an environment with such costly forms of credit and high variation between financing providers, small businesses can benefit from shopping around to find the best deal. But many financing provides do not disclose key terms of financing, and the format and content of existing disclosures are widely variable, hindering a small business owner's ability to compare financing offers. Federal Reserve research revealed the following key findings through conducting focus groups with small business operators.[2]

- Although participants initially said it was "easy" to evaluate credit products, when presented with several options, many expressed uncertainty or answered questions incorrectly when making specific product comparisons, particularly on cost.

- Virtually all the focus group participants said they want clearly stated product features and costs and an easier way to compare product offerings. Among their suggestions were interest rates expressed as APRs, straightforward explanation of all fees, and required statements about payment policies, including late fees and prepayment penalties.

Subsequent research from the Federal Reserve confirmed these findings.[3] The researchers found that cost was not the only factor driving small business owners' financing decisions. Among focus group participants, "best price" was the most commonly mentioned top factor in their choice of lender, but "quick and easy loan application process," "a lender I know and trust," and "likelihood application will be approved" were primary considerations for others. Standardized disclosures were found to provide helpful information in comparing financing options:

> The clear disclosure of product costs and terms could help many of these business owners make informed decisions about the amounts they borrow, cash flow management, early repayment, and repeat borrowing. Focus group participants reacted favorably to a sample disclosure box with total

[2] https://www.clevelandfed.org/publications/cd-reports/2015/sr-20150825-alternative-lending-through-the-eyes-of-mom-and-pop-small-business-owners
[3] https://www.federalreserve.gov/publications/files/what-small-business-borrowers-find-when-browsing-online-lender-websites.pdf

cost of capital, the term, payment frequency, APR, average payment amount, and basic information about prepayment. Their comments indicated that such information, presented clearly and in a standard format, would be very useful for product comparisons. A majority of participants commented that APR was among its most helpful details. The repayment amount, frequency of payments, and prepayment penalties were also cited as important.

These findings, in addition to the experiences and expressed preferences of the many small business organizations that support this bill, are the motivating force behind SB 1235 and the effort to maintain the annualized rate as a required metric in California's commercial financing disclosure law.

3) *Comparing Key Metrics Between Similar Financing Options*

The sponsors of this bill provided the following table comparing key metrics across financing products.

Regulatory Transaction Category	Example Marketing Name	Financing Amount	Total Dollar Cost of Financing	Term or Estimated Term	Payment or Estimated Payment	Payment Method & Frequency	Annualized Rate (APR or Estimated APR)
Closed-end	Term loan	$100,000	$20,000	5 years	$2,000	Monthly ACH	7%
Sales-based financing	Merchant cash advance	$100,000	$20,000	6 months (though often renewed multiple times)	Estimated $667/day, equal to about $20,000/month	Daily % cut of sales paid by credit card	75%
Asset-based lending	Asset-based line of credit	$100,000	$20,000	1 year	$10,000	Monthly Check	35%
Open-end credit plan	Line of credit	$100,000	$20,000	2 years	$5,000	Monthly ACH	18%
Factoring	Factoring	$100,000	$20,000	120 days	no regular payments	Invoice sold to factoring company	80%
Lease financing	Lease	$100,000	$20,000	3 years	$3,333	Monthly ACH	12%

Note that each of the products assumes the same financing amount and total dollar cost of financing, but the APRs vary significantly. The difference in APRs is driven by the difference in term or estimated term of each product. All else equal, a small business borrower prefers to have a longer repayment period over which to spread out the cash flows remitted to the financing provider, and APR serves as a helpful metric in signaling the relative benefits of the term structures of otherwise similar financing products.

A helpful illustration of this concept is provided by MFTransparency, a now defunct organization that worked to improve pricing transparency in the microfinance industry.[4]

> When you take out a loan you are essentially "renting" money. You are given money that is owned by someone else and you agree to pay them "rent" (interest) for this privilege. This is just like renting anything else, an apartment for example. If you rent an apartment, a room that costs $1000 dollars per day is very different than a room that costs $1000 dollars per month. Using Total Cost of Credit is like looking at the price of an apartment, but not taking into account how long you will be able to stay!
>
> But APR is like looking at a standardized cost per year for that same apartment:
>
> > $1,000 per day = $365,000 per year
> >
> > $1,000 per month = $12,000 per year
>
> Even an inexperienced customer can appreciate the difference. When price is standardized, the decision is simple!
>
> Thus the problem with using Total Cost of Credit is that it does not incorporate the time value of money. A small cost in a short time can be much harder to pay back than a larger cost over a longer time. It's not only how much you pay back, but when you pay it back. The price must account for how long can you put that loan to work to make a return that will pay for the interest. APR is thus a better indicator of price as it takes into account both time and money!

4) *Relitigating SB 1235 and Annualized Rate Disclosures*

Opposition arguments to this bill are substantively similar to arguments filed in opposition to SB 1235 and comments provided to DFPI throughout the rulemaking process, specifically arguments and comments related to the annualized rate disclosure requirement for sales-based financing and factoring.

Opposition claims that the estimated APR disclosure is inaccurate. This claim rests primarily on the statutorily mandated rules promulgated by DFPI that establish methods by which a provider of sales-based financing may forecast a

[4] http://www.mftransparency.org/total-cost-of-credit-vs-apr/

recipient's revenue, which is then used to project the recipient's repayment schedule. The opposition's argument fails to recognize that the rules require providers to disclose how the APR is calculated, that the APR is an estimate, and that the recipient's APR may vary. Taking into account these required disclosures, it is not factually true to characterize the estimated APR as "inaccurate," so long as providers comply with the regulation.

Another opposition claim is that providers "must make different assumptions and use different information on which to base those assumptions." This claim is also factually false. The rules allow sales-based financing providers to use one of two methods to estimate a recipient's income: the historical method and the underwriting method. The historical method requires a provider to forecast a recipient's revenue using four to twelve months of historical sales data, as specified in the rules. If a provider believes that they have a better way to forecast recipients' revenues, the provider may elect to use the underwriting method which allows the provider to use the best information reasonably available to the provider to establish the estimate. In either case, two providers may use the exact same assumptions in projecting revenue. For example, two providers may both elect to use the historical method based on 12 months of revenue, and those two providers should forecast the same revenue estimate for a given recipient based on that recipient's historical revenue. Likewise, though less likely that the previous example, two providers may have the same underwriting method to forecast a recipient's revenue, and those two providers should arrive at the same revenue estimate based on the same set of facts provided by a given recipient. A more accurate claim from opposition would be that providers "may" make different assumptions, rather than claiming that the rules require that providers "must" make different assumptions. And as mentioned in the previous paragraph, providers must disclose the assumptions upon which they rely to estimate a recipient's revenue, which gives the recipient that ability to appropriately contextualize any estimate.

To be fair, the differences in structures across commercial financing products do present challenges in developing a standardized disclosure, but it is these very differences that stymie a small business owner's ability to shop around and compare offers for financing without a set of common metrics to assess. In addressing the challenges of creating a standardized disclosure, DFPI led a thoughtful rulemaking process that spanned four years and provided nine opportunities for public comment. The result of that process is 48 pages of detailed regulations that provide a high level of specificity so that providers can understand their compliance obligations and recipients can receive helpful information as they evaluate their financing options.

Comments

Purpose of the bill. According to the author's office, "The bill is necessary to ensure California continues to protect small business borrowers under the disclosure regulations outlined by the Department of Financial Protection and Innovation as a result of SB 1235. A sunset written into SB 1235 would terminate the requirement that financial providers disclose the total cost of a financial product as an annualized rate to borrowers. The information provided by an annualized rate, APR, is crucial for small business borrowers to know. APR allows consumers to comparison shop and understand the total cost of the money they are borrowing. Because of how valuable this information is, the sunset must be repealed."

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

According to the Assembly Appropriations Committee, costs of an unknown amount, but likely less than $150,000 annually, to DFPI to continue enforcing APR disclosure requirements. Since the existing requirements only took effect in December 2022, enforcement efforts are still too new to fully extrapolate ongoing costs, especially in light of pending litigation.

SUPPORT: (Verified 9/13/23)

A Slice of New York
Access Plus Capital
Accessity
Accion Opportunity Fund
Agriculture and Land-based Training Association
Alro Window Coverings
American Enterprise
Amir Mansour
AmPac Tri-State CDC
Anchor Capitol
Anew America Community Corporation
AR Diesel Repair
Asian Pacific Islander Small Business Program WBC/LTSC Community Development Corp.
Asociacion De Emprendedor@s
Augustine's Dreams
Bankers Small Business Community Development Corporation
Bay Area Development Company
Bethel LA CDC

Bluevine
Bryant's Books Enterprises
C.o.o.k. Alliance
California Asset Building Coalition
California Association for Micro Enterprise Opportunity
California Black Chamber of Commerce
California Capital Financial Development Corporation
California Coalition for Community Investment
California Hispanic Chamber of Commerce
California Low-Income Consumer Coalition
California Reinvestment Coalition
California Small Business Development Center - Valley Community
CAMEO - California Association for Micro Enterprise Opportunity
Carmela Flores
CDC Small Business Finance
Central Valley Immigrant Integration Collaborative
Chino Valley Chamber of Commerce
Cleanup Carpet & Tile Care
Clear Vision Enterprise LLC
Club Pilates Palos Verdes
Cm Cleaning Solutions
Comebackshop
Comet Corn Popcorn
Consumer Advocates Against Reverse Mortgage Abuse
Consumer Federation of California
Cook Alliance
Crowdfundbetter
Discovering You
Dominofx Group
Dr Donna Lee Inc.
East LA Rising
Economic Development and Financing Corporation
El Pajaro Community Development Corporation
Elena's House Daycare
Finer Flora
First American Properties and Acquisitions
Focus Language International
Fresno Area Hispanic Foundation
Fresno Metro Black Chamber of Commerce
Funding Circle

Fusion Climb
Go Local Sonoma County
Greater Ontario Business Council
Green and Clean Landscaping and Construction Inc.
Halo Business Finance Corp
Hound Lounge
ICA Fund
Inclusive Action for the City
Innovative Lending Platform Association
International Rescue Committee
Invest in Women Entrepreneurs Initiative
Jedi
Jefferson Economic Development Organization
Judge Casey's Saucery
Julia Funk
Kery’s Fashion
Krtkl, INC.
Latino Economic Development Center
Lendingclub
Lighter Capital
Lisa Kaczmarczyk Phd Consulting, LLC
Logan Heights Community Development Corporation
Lotus Studio Pottery
Main Street Launch
Marian Doub Consulting
Mata Consulting LLC
Maximum Reach for Economic Equity
Mission Economic Development Agency
Mitchell's Transport, LLC
Momentus Capital
Multifunding
National Latina Women's Business Association - Inland Empire
Oakland African American Chamber of Commerce
Oakland Citizens Committee for Urban Renewal
Otokonda Ble Daycare
Pacific Community Ventures
Pacific Crest Dental
Prospera Community Development
Public Law Center
Pur-7le LLC

Rarámuri Income Tax
Red Jack Saloon
Relat-able
Renaissance Entrepreneurship Center
Retreat Skin & Hair Studio
Richmond Main Street Initiative
San Francisco African American Chamber of Commerce
San Mateo Area Chamber of Commerce
Sharron Fisher Stylist
Silver Lining
Silver Lining Strategies & Advocacy
Small Business California
Small Business Majority
Southeast Asian Community Center
Start Small Think Big
Start Up Monterey Bay
Sweet Bossa LLC
T and V Rooming LLC
Talisman Collection INC.
Tha Tax Lady
The Crane Works
The Greenlining Institute
The Responsible Business Lending Coalition
Trenell Leshelle Hair & Makeup Studio
Una Mas Mexican Grill
Uplift San Bernardino
Vanasek Insurance Services, Inc.
Vnt Authentic Catering Services
W W W Group
Wadeco
Women's Economic Ventures
Woodstock Institute
Working Solutions

OPPOSITION: (Verified 9/13/23)

Abate-a-Weed
Asian Food Trade Association
Asian Industry Business to Business
At Industrial Products
Brea Chamber of Commerce

Coalition of Small & Disabled Veteran Business Owners
Courier-Messenger Inc.
Crisp Catering
Cypress Chamber of Commerce
Flasher Barricade Association
Hills Flat Lumber Co.
Maloney Meat Company
National Federation of Latino Chambers of Commerce & Associations
Seabreeze Books & Charts
Small Business Finance Association
Sensis Inc.
Slavic-American Chamber of Commerce
SoCal Hydraulics
STAR Milling Co.
U.S. Hispanic Business Council

Prepared by: Michael Burdick / B. & F.I. /
9/13/23 20:45:14

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

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

UNFINISHED BUSINESS

Bill No: SB 35
Author: Umberg (D)
Amended: 9/8/23
Vote: 27 - Urgency

SENATE HEALTH COMMITTEE: 11-0, 4/19/23
AYES: Eggman, Nguyen, Dahle, Glazer, Gonzalez, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 37-0, 5/4/23 (Consent)
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Grove, Hurtado, Jones, Laird, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Blakespear, Gonzalez, Limón

SENATE JUDICIARY COMMITTEE: 9-0, 9/13/23 (Pursuant to Senate Rule 29.10)
AYES: Umberg, Wilk, Allen, Ashby, Durazo, Min, Niello, Stern, Wiener
NO VOTE RECORDED: Caballero, Laird

ASSEMBLY FLOOR: 78-0, 9/12/23 - See last page for vote

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

SOURCE: Author

DIGEST: This bill modifies the Community, Assistance, Recovery, and Empowerment (CARE) Act, which requires certain counties to implement the CARE Court Program beginning October 1, 2023.

Assembly Amendments expand the bill to clarify and modify the CARE Court process, the obligations and responsibilities of CARE petitioners and county behavioral health agencies (CBHAs), and the provisions relating to a respondent's privacy and the circumstances under which a health care provider may share the respondent's health care information with a CBHA in the course of the CARE process.

ANALYSIS:

Existing law:

1) Establishes the CARE Act. (Welf. & Inst. Code, div. 5, pt. 8, §§ 5970 et seq.)

2) Defines a number of relevant terms. (Welf. & Inst. Code, § 5971.)

3) Provides that the CARE Act shall be implemented as follows:

    a) A first cohort of counties, including Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and the City and County of San Francisco, shall begin no later than October 1, 2023.

    b) A second cohort of counties, representing the remaining counties in the state, shall begin no later than December 1, 2024.

    c) The Department of Health Care Services (DHCS) shall issue guidelines under which counties can apply for, and be provided, additional time in which to implement the CARE Act, subject to certain conditions and restrictions. (Welf. & Inst. Code, § 5970.5.)

4) Establishes criteria for a person to qualify for the CARE process, as specified. (Welf. & Inst. Code, § 5972.)

5) Establishes who may file a petition to initiate the CARE process, including a person with whom the respondent resides, a spouse, parent, sibling, child, or grandparent or other individual who stands in loco parentis to the respondent, or the director of a CBHA or county adult protective services, or their designee, of the county in which the respondent resides or is found. (Welf. & Inst. Code, § 5974.)

6) Allows a court, if a criminal defendant is found to be mentally incompetent and ineligible for a diversion, to refer the defendant to the CARE program, as provided. (Pen. Code, § 1370.1(b)(1)(D)(iv).)

7) Requires the Judicial Council to create a mandatory court form to file a CARE process petition, together with any other forms necessary during the CARE process, as specified. (Welf. & Inst. Code, § 5975.)

8) Establishes requirements for the jurisdiction in which a CARE Act petition may be filed, for the filing of a CARE Act petition, and for instances in which a CARE Act petition is filed to harass the respondent. (Welf. & Inst. Code, §§ 5973, 5975, 5975.1.)

9) Establishes the rights of the respondent, including the right to be represented by counsel at all stages of a CARE proceeding, regardless of ability to pay. (Welf. & Inst. Code, § 5976.)

10) Provides for the following regarding CARE Act hearings:

    a) Establishes that hearings are presumptively closed to the public, but permits the respondent to demand that the hearings be public.

    b) Permits the respondent to request the presence of a family member or friend without waiving the right to keep the hearing closed to the rest of the public.

    c) Permits the court to grant a request by another party to make a hearing public if the judge conducting the hearing finds that the public interest clearly outweighs the respondent's interest in privacy.

    d) Declares that all reports, evaluations, diagnoses, or other information related to the respondent's health shall be confidential.

    e) Requires the judge, before commencing a hearing, to inform the respondent of their rights under this section. (Welf. & Inst. Code, § 5976.5.)

11) Establishes the CARE Court process, wherein the court:

    a) Upon receipt of a CARE Act petition, must promptly review a CARE petition to determine whether a prima facie showing has been made that the respondent is or may be eligible for CARE Court, and, if so, take certain steps within specified timelines, including appointing counsel for the respondent, directing a CBHA to conduct an investigation into whether the

respondent meets the CARE Court criteria, and, if the court determines by clear and convincing evidence, after a hearing on the merits, that the respondent meets the CARE Court criteria, directing the CBHA to work with the respondent to develop a CARE agreement. (Welf. & Inst. Code § 5977.)

b) After ordering the CBHA and respondent to develop a CARE agreement, must conduct a case management to determine whether the parties have entered, or are likely to enter a CARE agreement; if the parties have entered into an agreement, the court must approve the agreement (as modified by the court, where applicable), or give the parties additional time to reach an agreement. If the parties are not likely to reach an agreement, the court must order the CBHA to conduct a clinical evaluation of the respondent to determine whether the respondent meets the CARE criteria, the court shall order the parties to develop a CARE plan. (Welf. & Inst. Code, § 5977.1.)

c) After the entry of a CARE plan, the court shall hold regular status agreements and, 11 months after the entry of a CARE plan, determine whether to graduate the respondent or order the respondent, voluntarily or involuntarily, to remain in the CARE process for up to one more year. (Welf. & Inst. Code, §§ 5799.2, 5977.3.)

12) Allows the court, at any point during CARE proceedings, if it determines, by clear and convincing evidence, that the respondent, after receiving notice, is not participating in the CARE process or is not adhering to their CARE plan, to terminate respondent's participation. The court is then permitted to make a referral under the Lanterman-Petris-Short Act (LPS Act), as provided. (Welf. & Inst. Code § 5979(a).)

13) Provides that, if a respondent was timely provided with all services and supports required by their CARE plan, the fact that the respondent failed to successfully complete the plan and reasons for that failure (a) are facts to be considered by a court in a subsequent hearing under the LPS Act, provided that the hearing occurs within six months of termination of the CARE plan; and (b) create a presumption at that hearing that the respondent needs additional interventions beyond the supports and services provided by the CARE plan. (Welf. & Inst. Code, § 5979(a)(3).)

14) Creates a process for penalizing counties or other local government entities that do not comply with CARE court orders. (Welf. & Inst. Code § 5979(b).)

15) Provides that either a respondent or a CBHA may appeal an adverse court determination. (Welf. & Inst. Code, § 5979(c).)

16) Establishes the LPS Act to end inappropriate, indefinite, and involuntary commitment of mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism, and to provide prompt evaluation and treatment of those with mental health disorders or impaired by chronic alcoholism. (Welf. & Inst. Code, div. 5, pt. 1, §§ 5000 et seq.)

17) Establishes the Confidentiality of Medical Information Act (CMIA). (Civ. Code, §§ 56-56.37.)

This bill:

1) Requires, after a criminal court has referred a defendant to the CARE program, the hearing to determine the defendant's eligibility to be held within 14 court days after the date on which the petition for the referral is filed.

2) Specifies that a county shall be granted only one extension for implementing the CARE Act. The final date for implementation under any circumstances is December 1, 2025.

3) Clarifies that legal representation of a respondent in CARE Act proceedings, and in matters related to CARE agreements and CARE plans, does not alter an attorney's obligations under the State Bar Act and the California Rules of Professional Conduct, including obligations relating to the attorney's duty of confidentiality.

4) Clarifies when certain individuals may file a CARE petition, including:

    a) A public guardian or public conservator, or their designee, of a county may file a petition if the respondent resides or is found in that county.

    b) The director or a Californian Indian health services program, California tribal behavioral health department, or their designee may file a petition if they have provided, within the previous 30 days, or are providing behavioral services to the respondent.

    c) The judge of a tribal court, or their designee, located in California may file a petition if the respondent has appeared before the judge within the prior 30 days.

5) Provides that, if a person other than the respondent files a petition for a CARE Act proceeding in order to gain an advantage over the respondent in another legal proceeding, then, notwithstanding any other provision of the CARE Act, it is cause for suspension, disbarment, or other discipline if a member of the State Bar is found to have filed the petition or assisted in the filing of the petition with knowledge that the filing was being made in order to gain that advantage. For purposes of this provision, "legal provision" does not include a proceeding under the LPS Act or a dependency proceeding.

6) Authorizes a CARE Act proceeding to be conducted by a superior court judge, a court-appointed commissioner, or other subordinate juvenile officer.

7) Provides that there shall be no filing fee for any CARE Act filing, nor shall any fees by charged by any public officer for services in filing or serving papers or for the performance of any duty enjoined by the CARE Act.

8) Adds and clarifies, to the list rights held by a respondent in a CARE proceeding, the rights to (a) have a supporter be present with them to perform the functions of a supporter as provided for in the CARE Act, and (b) have an interpreter present in all proceedings if necessary for the respondent to fully participate.

9) Clarifies that all reports, evaluations, or other information filed with the court related to the respondent's health shall be confidential, and permits the respondent, at any time, to petition the court for an order sealing those records or any other court records in a CARE Act proceeding. Notwithstanding any rule of court prohibiting records kept confidential by law from consideration for sealing, there is a presumption in favor of sealing the records if such a petition is filed.

10) Provides that the fact that evidence is admitted at a proceeding held under the CARE Act shall not be the basis for admission of that evidence in any subsequent legal proceeding.

11) Provides that photographs, recordings, transcripts, other records of proceedings held under the CARE Act, and testimony regarding proceedings held pursuant to the CARE Act, shall not be admissible in any subsequent legal proceeding except upon motion by the respondent, the CBHA, the public guardian, or the public conservator in that subsequent legal proceeding:

12) Provides that, in a CARE Act proceeding, the provisions relating to confidentiality of records and their use in subsequent proceedings do not affect

the applicability of Welfare and Institutions Code Section 5977.1(c)(2), make admissible any evidence that is not otherwise admissible, or permit a witness to base an opinion on any matter that is not a proper basis for that opinion. The admission or exclusion of evidence shall be pursuant to the rules of evidence established by the Evidence Code, including, but not limited to, Section 352 of the Evidence Code, and by judicial decision.

13) Allows, in lieu of the appointment of a public defender to represent the respondent, for the appointment of counsel "working in [the] capacity" of a public defender to represent the respondent.

14) Requires, when a petition has been filed by an individual other than a CBHA and the court orders the CBHA to investigate the respondent and file a report with the court, the CBHA's report to the court to include the information, including protected health information, necessary to support the determinations, conclusions, and recommendations in the report.

15) Clarifies the following regarding an original petitioner who is a person who lives with the respondent or an eligible family member of the respondent:

    a) They have the right to be present and make a statement at the initial hearing on the merits of the petition.

    b) The court may, at its discretion, assign ongoing rights of notice.

    c) The court may allow them to participate in the respondent's CARE proceedings to the extent that the respondent consents to their participation.

16) Clarifies that, if the original petitioner is not a person who lives with the respondent or eligible family member of the respondent, the original petitioner does not have ongoing rights other than the right to be present and make a statement at the initial hearing on the merits of the petition.

17) Requires additional evidence presented at the hearing on the merits of a petition to be "admissible" evidence.

18) Clarifies that if, at the hearing on the merits of the petition, the court finds there is not clear and convincing evidence that the respondent meets the specified CARE criteria, the court shall dismiss the case without prejudice, unless the court makes a finding, on the record, that the original petitioner's filing was not in good faith, in which case the dismissal shall be with prejudice.

19) Provides that the following shall apply to any written report submitted by a CBHA to the court:

    a) The report is confidential and not subject to disclosure under the California Public Records Act (Gov. Code, tit. 1, div. 10, §§ 7920.000 et seq.) (CPRA).

    b) The report is inadmissible in any subsequent legal proceeding, except upon motion of the respondent in that subsequent legal proceeding.

    c) The report is confidential, as specified.

    d) These limitations do not affect the applicability of Welfare and Institutions Code Section 5977.1(c)(2), make admissible any evidence that is not otherwise admissible, or permit a witness to base an opinion on any matter that is not a proper basis for that opinion. The admission or exclusion of evidence shall be pursuant to the rules of evidence established by the Evidence Code, including, but not limited to, Section 352 of the Evidence Code, and by judicial decision.

20) Clarifies that if, at the case management hearing, the court finds that the parties have entered, or are likely to enter, into a CARE agreement, the court shall either:

    a) Approve the terms of the CARE agreement or modify it and approve the agreement as modified, continue the matter, and set a progress hearing for 60 days; or

    b) Continue the matter for 14 days to allow the parties additional time to enter into a CARE agreement upon stipulation of the parties.

21) Requires the Judicial Council to develop rules regarding communications between the CARE Court and the juvenile courts, if applicable.

22) Provides that a CHBA may include in its report and evaluations, and a provider of health care may disclose to a CBHA, protected health information consistent with Civil Code Section 56.10(b)(9), as provided and subject to specified limitations. Neither a county nor an employee or agent thereof shall be held civilly or criminally liable for any disclosure authorized or required by provision.

23) Authorizes a CBHA to apply to the court ex parte for an order requiring any provider of health care, as defined, or any covered entity, as defined, to provide

to the county behavioral health agency, to the court, or both, any information, including, but not limited to, protected health information, and mental health records excluding psychotherapy notes, in its possession about the respondent that may be relevant in connection with an investigation, evaluation, or other report or hearing under this part, or with the provision of services and supports under this part. The provision of information under this paragraph is a disclosure required by law, which may be made only to the extent permitted under federal regulations, as specified, and the information ordered to be disclosed may include substance use disorder patient records only to the extent permitted by federal regulations, as specified.

24) Provides that a provider of health care or covered entity shall not be held civilly or criminally liable for any disclosure required or authorized under Welfare and Institutions Code Section 5977.4.

25) Requires a CBHA to notify the respondent of a disclosure under 22) and provide the information to the respondent and their counsel, as specified.

26) Provides that, except as expressly provided, further disclosure or redisclosure of information is not permitted.

27) Clarifies that, when an individual is referred to CARE Court from an LPS Act proceeding, the conservator or proposed conservator shall be the petitioner; and when an individual is referred to CARE Court from a misdemeanor proceeding, the CBHA or their designee shall be the petitioner.

28) Clarifies the timing of the information that DHCS must provide to the Legislature evaluating the effectiveness of the CARE Act, by specifying that the preliminary report is due to the Legislature by December 31, 2026, and the final report is due to the Legislature by December 31, 2028.

29) Makes technical and nonsubstantive conforming changes.

30) Includes an urgency clause.

Comments

In 2022, the Legislature enacted, and the Governor signed, SB 1338 (Umberg, Chapter 319, Statutes of 2022), known as the CARE Act, which is intended to deliver mental health and substance use disorder services for persons with certain severe mental illness diagnoses as an alternative to incarceration in a jail or psychiatric facility or to being subjected to a conservatorship under the LPS Act (Welf. & Inst. Code, div. 5, pt. 1, §§ 5000 et seq.). The CARE Act provides for

court-ordered CARE Plans for qualified persons suffering from a mental health or substance abuse disorder crisis for up to 12 months, with possible extensions. The plan is supposed to provide individuals with clinically appropriate, community-based services. A cohort of seven counties will implement the CARE Act by October 1, 2023; the remaining counties will implement the CARE Act by December 1, 2024.

This bill is intended to clean up and improve the CARE Act and address concerns raised by certain stakeholders in advance of the implementation date. Among other things, the bill is intended to provide protections for county entities that are obligated to obtain medical information about CARE Act respondents and ensure that the CARE Act does not inadvertently run afoul of state and federal law; ensure that respondents are provided with an interpreter when necessary for the respondent to participate fully in the proceedings; and clarify the rights of the individual or entity that files an original CARE petition.

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

According to the Assembly Appropriations Committee:

1) Costs (Trial Court Trust Fund, General Fund) to the courts of an unknown but potentially significant amount. Judicial Council reports minor and absorbable costs to accept petitions without filing fees, provide interpreters, conduct hearings using commissioners or other subordinate officers, and implement other changes included in the version of this bill dated July 12. To the extent the subsequent amendments require the court to consider additional orders or conduct additional hearings, the courts may experience additional workload costs. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the General Fund. The 2023-24 Budget includes $105 million from the General Fund to backfill declining revenue to the Trial Court Trust Fund.

2) Costs (local funds, General Fund) of an unknown but likely significant amount to county behavioral health agencies, potentially in the millions of dollars annually. Under this bill, a county behavioral health agency must obtain a CARE respondent's health care information, incorporate relevant information into reports and evaluations submitted to the court, and provide notice to the respondent and respondent's counsel of any disclosure of the respondent's health care information. Actual costs will depend on the number of CARE Act cases filed and the amount of additional workload incurred by a county behavioral health agency in complying with this bill's requirements. General

Fund costs will depend on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

The 2023-24 Budget provides $55.5 million to the courts to implement the CARE Act, with $133 million to the courts ongoing starting in fiscal year 2025-26, plus additional funding for related IT improvements and the CARE Act Supporter Program.

SUPPORT: (Verified 9/13/23)

California State Association of Counties
Rural County Representatives of California
Urban Counties of California

OPPOSITION: (Verified 9/13/23)

ACLU California Action
Disability Rights California
Electronic Frontier Foundation

ARGUMENTS IN SUPPORT: According to the California State Association of Counties, Rural County Representatives of California, and Urban Counties of California:

> Last year, the Legislature passed and the Governor signed SB 1338 (Chapter 319, Statutes of 2022), which creates a new court process authorizing specified individuals to petition a civil court to create a voluntary CARE agreement or court-ordered CARE plan to provide behavioral health care, including stabilization medication, housing, and other enumerated services, to adults who are currently experiencing a severe mental illness and have a diagnosis identified in the disorder class schizophrenia and other psychotic disorders, and who meet other specified criteria.
>
> Fulfillment of county behavioral health agencies' responsibilities under the CARE Act will require communication of detailed information regarding a respondent's behavioral health condition and treatment to the court. Such information is generally confidential under state and federal law and cannot be disclosed by any health care provider – including county behavioral health – without the respondent's consent. A respondent may decline to consent to release of their confidential medical and mental health information to the court – particularly during early phases of the case, when county behavioral health is preparing the initial report to the court required

under the provisions of the CARE Act. As a result, express legal authority will be required for county behavioral health agencies to provide the court with the information contemplated by the CARE Act.

We appreciate the [Assembly Privacy and Consumer Privacy] Committee's engagement with our organizations to develop additional amendments to ensure the data sharing provisions included in the CARE Act maintain the necessary confidentiality requirements as required by existing state and federal law.

ARGUMENTS IN OPPOSITION: According to ACLU California Action and Disability Rights California:

CARE Court is likely to do real harm to the populations the CARE Act intended to help, setting back decades of recovery tools designed to help those most marginalized. CARE Court will contribute to the re-institutionalization of people with disabilities, repeating a horrific history of civil rights abuses.

SB 35 will deepen the threat CARE Court poses to racial and economic justice. It will increase the harm and stigmatization of people with mental health disabilities, especially people within communities of color. Studies show Black, Indigenous and People of Color will disproportionately experience the harms that CARE Court poses. SB 35 will increase CARE Court's exploitation of poor people who need mental health care. It is those people with low incomes and/or from communities of color who will be most victim to the chilling effects CARE Court will have in preventing people from seeking treatment and care

ASSEMBLY FLOOR: 78-0, 9/12/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jones-Sawyer, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting,

Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Jackson, Kalra

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
9/13/23 18:28:19

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

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

UNFINISHED BUSINESS

Bill No: SB 48
Author: Becker (D)
Amended: 9/1/23
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 12-3, 4/10/23
AYES: Bradford, Ashby, Becker, Dodd, Durazo, Eggman, Gonzalez, McGuire, Min, Newman, Rubio, Skinner
NOES: Dahle, Seyarto, Wilk
NO VOTE RECORDED: Caballero, Grove, Stern

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 31-9, 5/24/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Building Energy Savings Act

SOURCE: Environment California
Institute for Market Transformation

DIGEST: This bill requires the California Energy Commission (CEC) along with other agencies, to develop to a state strategy to achieve state goals for energy and greenhouse gas (GHG) emissions from existing buildings.

Assembly Amendments add several requirements related to protecting tenants as part of the development of the strategy; add considerations for including a process by which a covered building owner can propose an alternative compliance; delete references to a specific advisory group and instead reference under-resourced communities and related entities; require the CEC to contract with organizations with experience representing under-resourced communities; require the development of metrics that could be used to measure how the strategy is impacting under-resourced communities; make clarifying changes to the findings and declarations; and other changes.

ANALYSIS:

Existing law:

1) Requires each utility to maintain records of the energy usage data of all buildings to which they provide service for at least the most recent 12 complete calendar months, and to deliver or otherwise provide that aggregated energy usage data for each covered building, as defined, to the owner. Requires the CEC to adopt regulations providing for the delivery to the CEC and public disclosure of benchmarking of energy use for covered buildings, and specifies that this requirement does not require the owner of a building with 16 or fewer residential utility accounts to collect or deliver energy usage information to the CEC. (Public Resources Code §25402.10)

2) Requires the CEC to assess the potential for the state to reduce the emissions of GHG from the state's residential and commercial building stock by at least 40 percent below 1990 levels by January 1, 2030. (Public Resources Code §25403)

3) Requires the CEC biennially to conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices and to use these assessments and forecasts to develop energy policies that conserve resources, protect the environment, and protect public health and safety. The CEC publishes its assessments and forecasts every two years in its Integrated Energy Policy Report. (Public Resources Code §25301)

4) Requires each electrical corporation plan to first meet unmet resource needs through all available energy efficiency, and demand reduction resources that are cost effective, reliable, and feasible. (Public Utilities Code §§454.5 (b)(9)(C))

5) Requires the CEC to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock. (Public Resources Code §25943)

This bill:

1) Specifies that the building benchmarking requirement does not require the owner of a building with less than 50,000 square feet of gross floor space to collect or deliver energy usage information to the CEC.

2) Requires the CEC, in consultation with the California Air Resources Board (CARB), CPUC, and Department of Housing and Community Development (HCD), on or before July 1, 2026, to develop a strategy for using the energy usage data from the benchmarking requirement to track and manage the energy and emissions of GHGs of covered buildings in order to achieve the state's goals, targets, and standards related to energy usage and emissions of GHGs of covered buildings.

3) Requires the CEC to consider and attempt to incorporate in the strategy a number of specified concerns, including: avoiding utility and rental cost burdens, evictions or displacement of tenants; cost-effectiveness of building upgrades, equitable access to jobs, prioritizing reductions in fuel-related GHG emissions, and others.

4) Requires the CEC to consider input from affected stakeholders, including housing and environmental justice community-based organizations, labor unions, building owners, low-income tenants, and others.

5) Requires the CEC to contract with one or more organizations with experience representing under-resourced communities, low-income residential tenants, and small commercial tenants to advise the CEC on the development of the strategy.

6) Requires the CEC to submit to the Legislature, on or before August 1, 2026, the strategy and recommendations for further legislative action that would help achieve the required objectives of the strategy.

Background

Reducing emissions from the building sector. Residential and commercial buildings are responsible for roughly 25 percent of California's GHG emissions when accounting for electricity demand, fossil fuels consumed onsite, and

refrigerants, according to CARB. Of the 25 percent, roughly 10 percent of emissions are attributable to fossil fuel combustion, including natural gas, with residential buildings accounting for slightly more of those emissions than commercial buildings. However, CARB has noted that these emissions numbers can vary from year-to-year. There are several strategies that can be employed to reduce GHG emissions from the building sector, these include: improved energy efficiency of buildings and appliances, reducing carbon emissions from fossil fuel sources, ensuring cleaner sources of energy to operate buildings and associated appliances, addressing methane leaks, and others. CARB has noted that refrigerants used for space-cooling and refrigeration systems also contribute directly to building-related GHG emissions and these are a growing source of GHGs from buildings which must also be reduced. The Climate Change Scoping Plan identifies actions to reduce GHG emissions from the building sector, including progressively improving building codes and standards, pursuing voluntary efforts to exceed code requirements, and completing existing building retrofits. The most recent Scoping Plan also noted the adoption of Building Performance Standards as an approach to reduce GHGs from existing buildings.

CEC tasked to assess the potential for reducing GHGs from buildings. AB 3232 (Friedman, Chapter 373, Statutes of 2018) required the CEC by January 1, 2021, to develop an assessment of the feasibility of reducing the GHG emissions of California's buildings 40 percent below 1990 levels by 2030, working in consultation with the CPUC and other state agencies. AB 3232 appropriately, does not require specific actions to implement the plan. Rather, the results of the assessments required of the CEC are intended to help inform whether future policies have merit and are cost-effective to achieve the stated goal. It is important to note that AB 3232 only required a cost-effectiveness assessment addressing emissions from space and water heating, but not other applications, such as cooking. The AB 3232 *California Building Decarbonization Assessment* was published in August of 2021 and analyzes scenarios to reduce GHG emissions from the building sector. The assessment identifies efficient electrification of space and water heating in California's buildings combined with refrigerant leakage reduction presents the most readily achievable pathway to a greater than 40 percent reduction in GHG emissions by 2030. However, the assessment also acknowledged the challenges, including consumer awareness and availability of financing.

New v. Existing Buildings. California energy efficiency policy related to buildings is based on savings of electricity measured in kilowatt hours and gas savings measured in therms. The policies have also distinguished between new

construction and existing/older building stock (although building renovations do sometimes fall under new construction regulations).

Building Energy Benchmarking Program. The Building Energy Benchmarking Program is the state's program to publicly disclose the energy use of buildings in California. Benchmarking is tracking energy performance against a standard. Under the Building Energy Benchmarking Program, building owners calculate energy use intensity by dividing the energy use by the square footage of the building. That number acts as a baseline to compare the efficiency of the building to that of previous years or to those of similar buildings. Mandatory reporting began in 2018 for buildings with no residential units and more than 50,000 square feet of gross floor area, and in 2019 for buildings with 17 or more residential units and more than 50,000 square feet of gross floor area. Reporting is due by June 1st annually. The CEC reports roughly 65 percent of building owners have reported data for the roughly 98 percent of the 50,000 square foot buildings identified as required to report. The CEC encouraged participation in the program, but is contemplating a letter notification campaign to encourage more participation. However, in some instances, the CEC has noted challenges to tracking down contact information for the owner of the building.

Comments

Addressing affordability. Integrating strategies to reduce GHGs is generally more cost-effective in new building construction compared to existing buildings. The challenge to transition existing buildings is complicated by occupancy, inertia, limited consumer knowledge, but most especially costs. The Building Decarbonization Coalition, a group organized to support efforts to reduce GHGs from buildings, estimates that the investment needed to decarbonize the residential sector alone is about $5 billion annually for just low- and moderate-income households. This bill attempts to address affordability concerns as part of the development of the state strategy, including requiring input from stakeholders representing low-income tenants, building owners, and the contracting with organizations with experience representing under-resourced communities. However, there are still many questions and concerns about whether these measures are adequate to address impacts. This bill appropriately does not require the implementation of the strategy. Instead, this bill requires the CEC to develop the strategy and distribute a report with the strategy and recommendations to the Legislature. As such, the Legislature will be able to review the strategy to inform future policy actions.

Related/Prior Legislation

AB 1279 (Muratsuchi, Chapter 337, Statutes of 2022) established the policy of the state to achieve carbon neutrality as soon as possible, but no later than 2045

SB 1477 (Stern, Chapter 378, Statutes of 2018) required the CEC to develop a statewide market transformation initiative to transform the state's market for low-emission space and water heating equipment for new and existing residential and nonresidential buildings and to develop an incentive program to fund near-zero emission technology for new residential and commercial buildings.

AB 3232 (Friedman, Chapter 373, Statutes of 2018) required the CEC to assess the potential for the state to achieve the goal of reducing the emissions of GHGs by the state's residential and commercial building stock by at least 40 percent below the 1990 levels by January 1, 2030.

SB 32 (Pavley, Chapter 249, Statutes of 2016) required the CARB to reduce statewide GHG emissions to at least 40 percent below the 1990 emissions level by 2030.

AB 802 (Williams, Chapter 590, Statutes of 2015), among its three main provisions, abolished the CEC-administered "AB 1103" program of nonresidential building energy consumption disclosure and replaces it with an energy use "benchmarking" and disclosure program for existing buildings.

AB 531 (Saldaña, Chapter 323, Statutes of 2009) gave the CEC authority to set a schedule for compliance with the requirements of AB 1103.

AB 758 (Skinner, Chapter 470, Statutes of 2009) required the development of the Existing Buildings Program, which resulted in the triennial *Existing Buildings Energy Efficiency Action Plan.*

AB 1103 (Saldaña, Chapter 533, Statutes of 2007) required utilities to maintain records of energy consumption of all nonresidential buildings to which they provide service and to upload this data to US EPA ENERGY STAR Portfolio Manager. The bill also required the owner or operator of a nonresidential building to disclose the Portfolio Manager benchmarking data and ratings for the building to a prospective buyer, lessee, or lender.

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

According to the Assembly Committee on Appropriations:

- CEC estimates it will need considerable resources—five full-time staff positions at an annual cost of $925,000 and $650,000 in contracting expenses—to develop, evaluate, and establish the strategy (Energy Resource Programs Account (ERPA)). CEC asserts these costs would be ongoing, as it would need to update the processes, evaluations and document every three years; however, it seems unfair to describe these costs as ongoing as the bill requires that CEC develop a strategy and submit it to the Legislature only once.
  CEC notes ERPA is in a structural deficit and, as a result, the CEC has overspent revenues by more than $17.4 million since fiscal year 2014-15. This structural deficit limits ERPA's ability to support new programs.

- Costs to ARB, CPUC and HCD to consult with CEC should be minor and absorbable.

SUPPORT: (Verified 9/8/23)

Environment California (co-source)
Institute for Market Transformation (co-source)
350: Bay Area Action, Petaluma, Sacramento, SoCal Climate Action, and Ventura County Climate Hub
A. O. Smith Corporation
Active San Gabriel Valley
American Institute of Architects California
Ban SUP
Biodiversity First!
Breathe Southern California
Building Decarbonization Coalition
California Efficiency + Demand Management Council
California Energy Alliance
Californians for Energy Choice
Californians for Western Wilderness
CALPIRG
Carbon Free Palo Alto
Carbon Free Silicon Valley
Center for Community Energy
Center for Sustainable Energy
Ceres

City of West Hollywood
CivicWell
CleanEarth4Kids.org
Climate Action California
Climate Action Campaign
Climate Action Mendocino
Coalition for Clean Air
Drawdown Bay Area
Elders Climate Action, NorCal Chapter
Elders Climate Action, SoCal Chapter
Environmental Working Group
Environteers.org
Extinction Rebellion San Francisco Bay Area
Feminists in Action Los Angeles
Friends Committee on Legislation of California
Green the Church
Indivisible: Alta Pasadena, CA: StateStrong, California Green Team, Marin, San Jose, Sonoma County, Ventura, and Yolo
Institute for Market Transformation
Los Angeles Regional Collaborative for Climate Action and Sustainability
Menlo Spark
Natural Heritage Institute
Natural Resources Defense Council
New Buildings Institute
North County Climate Change Alliance
Our City San Francisco
Pacifica Climate Committee
Peninsula Interfaith Climate Action
Rewiring America
RMI
Rooted in Resistance
San Joaquin Valley Democratic Club
Santa Cruz Climate Action Network
Santa Cruz County Democratic Central Committee
Sierra Club California
Silicon Valley Youth Climate Action
Southern California Edison
Sunflower Alliance
Sunrise Movement Orange County
Sustainable Mill Valley

Sustaining Way
The Climate Alliance of Santa Cruz County
The Climate Center
The Energy Coalition
Throop Unitarian Universalist Church
UndauntedK12
U.S. Green Building Council
U.S. Green Building Council - Los Angeles
Vote Solar

OPPOSITION: (Verified 9/8/23)

California Association of Realtors

ARGUMENTS IN SUPPORT: According to the author:

> SB 48 directs the Energy Commission, in coordination with the State Water Resources Control Board, to develop a strategy for leveraging benchmarking data to help achieve the state's targets for efficiency improvements and GHG emissions reductions. California can follow the example of other cities and states (including Washington, Maryland, Colorado, New York City, and Washington, DC) who have enacted building performance standard programs, leveraging benchmarking data, to improve efficiency in older buildings. The state already has a benchmarking program for energy usage of large commercial and residential buildings, and SB 48 bill adds water data into that program.
>
> A strategy that encourages investment in older buildings can create job opportunities, strengthen climate resilience, and result in healthier, more durable, and less expensive spaces in which to live, learn, and work. SB 48 takes a first step in achieving those outcomes by starting an inclusive process to develop a strategy for cleaner, more efficient buildings.

ARGUMENTS IN OPPOSITION: The California Association of Realtors oppose this bill out of concerns that "a new energy efficiency strategy which, in turn, may impose onerous requirements on housing providers." Additionally, they contend that this bill will "expand the definition of harassment, in current law, as well as allow the CEC to include rental rate, eviction and relocation assistance

requirements in the aforementioned strategy that go beyond the heavily negotiated provisions contained in existing law."

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
9/13/23 21:04:18

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

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

UNFINISHED BUSINESS

Bill No: SB 49
Author: Becker (D)
Amended: 9/1/23
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 16-0, 4/11/23
AYES: Gonzalez, Niello, Allen, Archuleta, Becker, Blakespear, Cortese, Dahle, Dodd, Limón, McGuire, Newman, Nguyen, Seyarto, Umberg, Wahab

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Renewable energy: Department of Transportation: evaluation

SOURCE: Author

DIGEST: This bill requires, by December 31, 2025, the Department of Transportation (Caltrans), in coordination with the California Energy Commission (CEC) and the California Public Utilities Commission (CPUC), to evaluate the issues and policies impeding development of land within the Caltrans right of way for renewable energy, energy storage, and electric transmission and distribution facilities.

Assembly Amendments replace the requirement for Caltrans to develop a strategic plan for leasing its facilities with a requirement for Caltrans to evaluate the barriers

to making its facilities and right-of-way available for specified energy infrastructure. In addition, all the findings and declarations are deleted.

ANALYSIS:

Existing law:

1) Vests Caltrans with control of all state highways and all property acquired for state highway purposes.

2) Authorizes Caltrans to issue permits for use of a state highway right-of-way necessary for telephone or electrical lines.

This bill:

1) Requires Caltrans, in coordination with CEC and CPUC to evaluate the issues and policies impeding development of land within Caltrans right-of-way for renewable energy generation facilities, energy storage facilities, and electrical transmission and distribution facilities.

2) Requires the evaluation to do all of the following:

    a) Consider various ownership structures for the facilities.

    b) Identify the issues and policies impeding the use of Caltrans right-of-way that could be made available for the development of renewable energy and energy storage facilities to the maximum extent economically feasible.

    c) Identify the amount of renewable energy generation and energy storage capacity that could feasibly be developed.

    d) Evaluate, in coordination with the CPUC and the California Independent System Operator, the suitability of the various types of Caltrans right-of-way for the development of electrical transmission and distribution facilities.

    e) Identify issues and policies impeding the use of Caltrans right-of-way for the development of electrical transmission and distribution facilities.

    f) Establish a process for entities interested in using Caltrans right-of-way to operate and build electric facilities to apply to the department for agreements.

Comments

1) *Author's Statement.* According to the author, "California needs to build more than 100,000 megawatts of new solar generation (3 times our current amount), along with transmission to deliver it to our cities, in order to achieve our 100% clean energy goal. SB 49 supports solar and transmission lines that avoid construction on undeveloped or agricultural land."

2) *Ambitious Goals*. California has ambitious clean energy goals. Current law commits the state to getting all of its electricity from renewable and zero-emission resources by 2045 and requires state agencies to do so by 2035. Key to the state's clean energy strategy is the electrification of nearly everything. Not only will the state need electricity from clean resources, it will need a lot more of it. For California to meet its goals, unprecedented amounts of renewable generation, electricity storage and electricity transmission will need to be developed in the coming decade. Siting these energy facilities will require a lot of land.

3) *Easier.* The highway right-of-way (ROW) is an extremely valuable resource, particularly as a way to build electric transmission lines. Building new transmission lines is arduous, lengthy and costly, due in no small part to the difficulty of negotiating with hundreds, if not thousands, of landowners to acquire the necessary of right-of-way (ROW). Using the existing highway ROW greatly simplifies this.

4) *Federal Government on Board.* In April 2021 the Federal Highway Administration (FHWA) issued guidance on how renewable energy, electric transmission and distribution, and broadband projects can be installed in the highway ROW. That guidance noted that it is in the public's interest to accommodate utility facilities on the highway ROW "when such use does not adversely affect highway or traffic safety, or otherwise impair the highway or its aesthetic quality…"

5) *Been Thinking About That.* Caltrans has also been investigating using their ROW for solar projects. In December 2020 a researcher from the University of California, Merced submitted a research report to Caltrans, at their request, to provide guidance on the installation of utility-scale solar electric generation facilities in their ROW.[1]

[1] "Solar Power Initiative Using Caltrans Right-of-Way; Final Research Report" by Sarah Kurtz, University of California Merced; December 2020; Caltrans Project No. P1253.

6) *Careful Out There.* The enthusiasm for using the highway ROW for energy infrastructure must be tempered by the hazards present in the ROW. It is a dangerous environment where pedestrians, bicycles and slow-moving vehicles are often prohibited. Adding structures to support solar panels or electric transmission lines creates additional obstacles which could be accidentally struck by vehicles. Installation, operation, and maintenance of electric facilities bring people and equipment into uncomfortably close proximity with fast-moving vehicles.

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

According to the Assembly Appropriations Committee, this bill will result in costs of an unknown, but presumably significant amount, likely in the hundreds of thousands of dollars one time, for Caltrans to evaluate the issues and policies impeding development of land within department-owned ROW. Additional costs to the CPUC to coordinate with Caltrans on the evaluation will likely cost in the low to mid hundreds of thousands of dollars, one time. Finally, costs to the CEC should be in the tens of thousands to low hundreds of thousands of dollars one time to coordinate with Caltrans.

SUPPORT: (Verified 9/11/23)

350 Bay Area Action
350 Conejo / San Fernando Valley
350 Humboldt: Grass Roots Climate Action
350 Ventura County Climate Hub
Acela Biotek
Active San Gabriel Valley
Alliance of Nurses for Healthy Environments
Asuc External Affairs Vice President's Office
Ban SUP
California Environmental Voters
California Interfaith Power & Light
California Native Plant Society
California Religious Action Center of Reform Judaism
California Solar & Storage Association
California State Association of Electrical Workers
Californians for Western Wilderness
CALPIRG
Catholic Charities of the Diocese of Stockton
Catholic Charities, Diocese of Stockton

Center for Biological Diversity
Center for Community Energy
Central California Asthma Collaborative
Citizens' Climate Lobby SoCal Tri-Counties Chapter
Cleanearth4kids.org
Climate Action California
Climate Action Campaign
Climate Action Mendocino
Climate Hawks Vote
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, Orange County
Climate Reality Project, San Fernando Valley
Direct Connect Development Company
Elders Climate Action, NorCal and SoCal Chapters
Electreon Wireless Inc.
Emerald Blue LLC
Environment California
Environmental Defense Fund
Environmental Justice Coalition for Water
Environmental Protection Information Center
Environmental Working Group
Environteers.org
Extinction Rebellion San Francisco Bay Area
Feminists in Action Los Angeles
Food & Water Watch
Friends Committee on Legislation of California
Friends of Harbors, Beaches and Parks
Green New Deal at UC San Diego
Habitable Designs
Hammond Climate Solutions Foundation
Humboldt County Democratic Central Committee
Indivisible CA: Statestrong
Indivisible Marin
Indivisible Sonoma County
Indivisible Yolo
League of Women Voters of California
Little USA Community Solar Campus
Los Angeles Business Council
Natural Heritage Institute
Pacific Environment

Peninsula Interfaith Climate Action
Progressive Zionists of California
Recolte Energy
Sacramento Area Congregations Together
San Diego 350
San Joaquin Valley Democratic Club
San Luis Obispo Mothers for Peace
Santa Cruz Climate Action Network
Sesame Solar
Sierra Club, Tehipite Chapter
SLO Climate Action
SoCal 350 Climate Action
Sunflower Alliance
Sunrun Inc.
Sustainable Claremont
The Climate Alliance of Santa Cruz County
The Climate Center
The Ray
Visceral
West End Revitalization Association
Wild Energy Center

OPPOSITION: (Verified 9/11/23)

None received

Prepared by: Randy Chinn / TRANS. / (916) 651-4121
9/13/23 20:45:16

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

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

UNFINISHED BUSINESS

Bill No: SB 52
Author: Durazo (D), et al.
Amended: 9/7/23
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 6-0, 4/18/23
AYES: Glazer, Allen, McGuire, Menjivar, Newman, Umberg
NO VOTE RECORDED: Nguyen

SENATE GOVERNANCE & FIN. COMMITTEE: 6-2, 4/26/23
AYES: Caballero, Blakespear, Durazo, Glazer, Skinner, Wiener
NOES: Seyarto, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 32-7, 5/22/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NOES: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto
NO VOTE RECORDED: Alvarado-Gil

ASSEMBLY FLOOR: Not available

SUBJECT: Redistricting: large charter cities

SOURCE: Author

DIGEST: This bill requires a charter city with a population of at least 2.5 million people, which has a city charter that does not establish an independent redistricting

commission, to establish an independent redistricting commission to adjust the district boundaries for the city council, as specified.

Assembly Amendments modify the size, selection process, and requirements of independent redistricting commissions proposed by this bill. The amendments also provide that this bill becomes operative if AB 1248 is enacted and becomes effective on or before January 1, 2024, and add coauthors.

ANALYSIS:

Existing law:

1) Requires the city council for a charter city that elects its city council using district-based elections to adopt new city council district boundaries following each federal decennial census.

2) Requires the city council to adopt the new boundaries using specified criteria, and by a specified deadline, unless the charter city has adopted different redistricting criteria or a different deadline by ordinance or in its city charter.

3) Establishes rules that counties and cities must follow when they adopt or adjust the boundaries of electoral districts used to elect members of the jurisdictions' governing bodies, as specified.

4) Prohibits a county or city, after districting or redistricting, from adopting new district boundaries until after the next federal census, except as specified.

5) Authorizes any city or county to establish and independent an independent redistricting commission that has the authority to adjust the boundaries of the districts of the board of supervisors or the city council.

This bill:

1) Requires a charter city with a population of at least 2.5 million on July 1st in a year ending in the number nine to establish an IRC no later than December 31st in a year ending in the number zero, as specified. Provides all of the following if the city's charter does not already provide for an IRC:

    a) Requires the IRC to have 21 voting members and 2 non-voting alternates who meet specified qualifications and to adjust the boundaries of the city's council districts after every decennial census. At least one commissioner must reside in each of the existing city council districts.

b) Outlines the selection process, terms, and conduct for IRC members, such as requiring the city council to prescribe the selection entity responsible for vetting applicants according to the following priority order: the city's ethics commission, if one exists; the city clerk, if the office is not elected; a panel of three retired judges; or the county auditor-controller.

2) Provides that this bill shall become operative only if AB 1248 (Bryan, 2023) of the current legislative session is enacted and becomes effective on or before January 1, 2024.

Background

Local Redistricting. Prior to 2017, counties and general law cities were able to create advisory redistricting commissions, but were not able to create independent commissions with the authority to establish district boundaries. Instead, the authority to establish district boundaries for a local jurisdiction was generally held by the governing body of that jurisdiction. Charter cities are able to establish independent redistricting commissions that have the authority to establish district boundaries because the California Constitution gives charter cities broad authority over the conduct of city elections and over the manner in which municipal officers are elected. As a result, a number of California charter cities established redistricting commissions to adjust city council districts following each decennial census. Counties and general law cities did not have that authority in the absence of express statutory authorization. In 2017, SB 1108 (Allen, Chapter 784, Statutes of 2016) was enacted and authorized any county or city to establish an independent redistricting commission with the authority to adjust the boundaries of the districts of the board of supervisors or city council.

Cities by Population. As of January 2002, the Department of Finance's population figures and projections based on historical growth or decline for all cities in California indicated that only the City of Los Angeles would be affected by this bill at this time and in the near future. Annexation of a fast growing area could increase the rate of growth above current percentages.

City of Los Angeles. The City of Los Angeles is a charter city. Section 204 of the city charter outlines redistricting procedures, and provides for the creation of a redistricting commission to advise the City Council (Council) on the drawing of Council district lines. The ultimate authority to adopt lines, however, rests with the Council.

The advisory redistricting commission comprises 21 members—three appointed by the Mayor, two by the City Council President, one by the City Attorney, one by the

Controller, and one by each of the 14 Council Members other than the Council President. While the commission is tasked with receiving public input and presenting a proposal for redistricting to the Council, the Council is not required to adopt or consider the proposal adopted by the commission.

2021 Los Angeles City Redistricting. According to a report prepared by the Los Angeles City Redistricting Commission (Commission) at the conclusion of its 2021 redistricting process, the Commission held 21 public hearings prior to adopting the final redistricting plan that it recommended to the City Council. The Commission reported that more than 6,300 people participated in its public hearings and special meetings, and more than 1,450 speakers provided testimony. At its meeting on October 21, 2021, the Commission voted 15-6 to approve its final map recommendation to the City Council.

After the Commission approved its final map, the City Council referred it to an Ad Hoc Redistricting Committee of the Council, which approved an amended map that it sent to the full Council. The Council held two public hearings as required by state law, made additional adjustments to the plan, and voted to adopt the ordinance with the final district boundaries on December 7, 2021, by a 13-0 vote.

Comments

According to the author, SB 52 will require cities with a population of 2.5 million or more to establish an independent redistricting commission to draw the district lines for its city council to ensure a transparent and fair redistricting process. This bill is following in the trend of independent citizens redistricting commissions already determining district lines for federal, state, and local elected officials including Los Angeles County.

The state has taken an increased interest in the adoption of independent redistricting commissions for cities with larger populations, based on how these local entities serve as local stewards, with these local governing bodies overseeing the distribution of significant amounts of public resources to finance critical services such as housing/homelessness, and utility relief.

The most glaring example of this statewide concern is found with the Los Angeles City Council following the release of 2021 troubling recorded discussions regarding the local redistricting process. This example showed the council was not prioritizing their residents' wellbeing, eroding public confidence in the existing Los Angeles City redistricting process and jeopardizing how public resources are distributed.

SB 52 provides a carefully tailored remedy to require an independent redistricting commission. This bill also allows cities to establish an independent redistricting commission within their charter.

Related/Prior Legislation

AB 764 (Bryan, 2023) makes special districts, school districts, community college districts, and county boards of education subject to similar criteria and process requirements that apply to counties and cities that are adjusting the boundaries of the districts used to elect members of their governing bodies. AB 764 also increases the public hearing and outreach requirements that apply to all local jurisdictions as part of the process for adopting or adjusting boundaries.

AB 1248 (Bryan, 2023) requires a county or city with more than 300,000 residents, or a school district or community college district with more than 500,000 residents, to establish an independent redistricting commission to adopt district boundaries after each federal decennial census.

SB 1269 (Allen, 2022) would have made various changes to the composition and operations for the County of Los Angeles Citizens Redistricting Commission.

SB 158 (Allen, Chapter 107, Statutes of 2020) clarified that voters who are not affiliated with a political party or do not indicate a party preference are able to serve on the County of Los Angeles Citizens Redistricting Commission.

SB 139 (Allen, 2019) would have required a county with more than 400,000 residents to establish an independent redistricting commission tasked with adopting the county's supervisorial districts following each federal decennial census, as specified. In his veto message, Governor Newsom stated, in part, "While I agree these commissions can be an important tool in preventing gerrymandering, local jurisdictions are already authorized to establish independent, advisory or hybrid redistricting commissions. Moreover, this measure constitutes a clear mandate for which the state may be required to reimburse counties pursuant to the California Constitution and should therefore be considered in the annual budget process."

SB 958 (Lara, Chapter 781, Statutes of 2016) created the CLACRC and required the commission to adjust the boundary lines of the supervisorial districts for the County of Los Angeles Board of Supervisors in the year following the year in which the decennial federal census is taken.

SB 1108 (Allen, Chapter 784, Statutes of 2016) authorized any county or city to establish an Independent Redistricting Commission that has the authority to adjust the boundaries of the districts of the board of supervisors or the city council.

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

According to the Assembly Appropriations Committee, by requiring qualified charter cities to provide funding and staffing for the creation and operation of an IRC, including specified duties for the selection entity, this bill creates a state-mandated local program. If the Commission on State Mandates (CSM) determines the provisions of this bill create a new program or impose a higher level of service for which the state must reimburse local costs, cities could claim reimbursement from the state. The magnitude of these costs is unknown, but likely at least in the high hundreds of thousands of dollars every ten years (General Fund (GF)).

For reference, the CSM adopted a statewide cost estimate of $1.2 million one-time GF to reimburse Los Angeles County for costs related SB 958 (Lara, Chapter 781, Statutes of 2016), which established the Citizens Redistricting Commission for Los Angeles County.

SUPPORT: (Verified 9/13/23)

American Federation of State, County and Municipal Employees, AFL-CIO
Barrio Action Youth & Family Center
California Common Cause
California Environmental Voters
Central City Neighborhood Partners
Homeboy Industries
Koreatown Youth & Community Center
League of Women Voters of California
Parents, Educators/Teachers & Students in Action
Restaurant Opportunities Center Los Angeles

OPPOSITION: (Verified 9/13/23)

City of Los Angeles

ARGUMENTS IN SUPPORT: In a letter supporting SB 52, the Restaurant Opportunities Center Los Angeles (ROC-LA) stated, in part, the following:

> SB 52 continues California's adoption of independent redistricting as a mechanism to limit individual bias and personal influence from factoring into drawing district lines for elected office. The state has a stake in seeing major local entities adopt independent redistricting commission models. This is due to how these local entities serve as stewards for the distribution of major public resources to fund critical services including housing/homelessness and utility relief.

ROC-LA believes SB 52 provides a remedy that will require large cities to adopt a transparent, fair, and unbiased redistricting process for the public good that best captures an equitable representation of the city, for public resources to be fairly distributed, while also strengthening the relationship between community and government.

ARGUMENTS IN OPPOSITION: In a letter opposing SB 52, the City of Los Angeles (City) stated, in part, the following:

The City recognizes that our current redistricting process is fundamentally flawed. To restore Angelinos' faith in the City's redistricting process, the time has come for the City to offer voters the chance to consider an alternative redistricting process that establishes an Independent Redistricting Commission in the City Charter. To that end, the Los Angeles City Council has established the Ad Hoc Committee on City Governance Reform, which is tasked with, among other duties, evaluating options for establishing a truly independent redistricting commission, and that analysis is currently underway with full participation of the public.

Los Angeles voters, who intimately understand the diverse and unique nature of the City, deserve to decide the terms of their own redistricting process, and should not have that right overruled by the State Legislature.

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/13/23 20:45:23

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

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

UNFINISHED BUSINESS

Bill No: SB 76
Author: Wiener (D), et al.
Amended: 9/7/23
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 4/25/23
AYES: Dodd, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Jones, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto
NO VOTE RECORDED: Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Alcoholic beverages: music venue license: entertainment zones: consumption

SOURCE: Bay Area Council
National Independent Venue Association of California

DIGEST: This bill authorizes specified licensees in the City and County of San Francisco to allow consumers to leave the licensed premises with open containers of alcoholic beverages for consumption off the premises within an entertainment zone, as specified. In addition, this bill makes various changes to the music venue license, as specified.

Assembly Amendments 1) narrow the "entertainment zone" provisions of the bill to the City and County of San Francisco, 2) authorize a music venue licensee to obtain duplicate licenses, 3) authorize a music venue licensee to sell and serve alcoholic beverages during private events or private functions, and 4) add chaptering out language with AB 788 (Ashby, 2023) and AB 1704 (Santiago, 2023).

ANALYSIS:

Existing law:

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

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

3) Creates the music venue license, which allows the licensee to sell beer, wine, and distilled spirits for consumption on the premises in a music entertainment facility, as defined.

4) Provides that any person possessing an open container of an alcoholic beverage in any city, county, or city and county owned public place or any regional park or recreation and park district, is guilty of an infraction if the city or county has enacted an ordinance that prohibits the possession of those containers or the consumption of alcoholic beverages in those areas, except as specified.

5) Authorizes, under the Planning and Zoning Law, the legislative body of any city or county to adopt ordinances regulating zoning within its jurisdiction, as specified.

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

This bill:

1) Authorizes a licensed beer manufacturer, a licensed winegrower, and any on-sale licensee to permit consumers to leave the premises with open containers of alcoholic beverages for consumption off the premises within an entertainment zone if all of the following conditions are satisfied:

    a) The premises is located within the entertainment zone.
    b) Consumption of that type of alcoholic beverage is authorized by the ordinance creating the entertainment zone.
    c) Open alcohol containers only leave the premises during the hours allowed by the ordinance establishing the entertainment zone.
    d) Patrons with open containers exit the premises directly into an entertainment zone.
    e) All alcoholic beverages in the entertainment zone are purchased only at a licensed premises located within the entertainment zone.
    f) The premises expressly prohibits open containers or closed containers of alcoholic beverages acquired outside their premises.
    g) Delivery of alcoholic beverages to consumers within the entertainment zone by the licensee or by any third-party delivery service is expressly prohibited unless the delivery is to a residential building or private business that is not a licensee.
    h) No alcoholic beverages purchased at the licensed premises may leave the premises in an open glass or metal container for consumption in an entertainment zone.
    i) The licensee annually submits their notice of intent to participate in an open container entertainment zone to the department.

2) Defines “Entertainment zone” to mean a zone created by a city, county, or city and county ordinance on or after January 1, 2024, in the City and County of San Francisco that authorizes consumption of one or more types of alcoholic beverages on public streets, sidewalks, or public rights-of-way adjacent to and during a special event permitted or licensed by the Department of ABC.

3) Requires the City and County of San Francisco, if it establishes an entertainment zone, to do all of the following:

a) Establish a process or procedure by which persons in possession of alcoholic beverages in the entertainment zone may be readily identifiable as being 21 years of age or older.
b) Provides the Department of ABC with all of the following:
   i) A copy of the ordinance establishing the entertainment zone.
   ii) Information as may be necessary to identify the boundaries of the entertainment zone.
   iii) The days and hours of operation of the entertainment zone.
   iv) The times of alcoholic beverages permitted within the entertainment zone.
   v) The approves nonglass and nonmetal containers in which alcoholic beverages may be authorized.

4) Provides that nothing in this bill requires a licensee to sell any alcoholic beverage for consumption off the premises within an entertainment zone.

5) Authorizes a licensee under a music venue license to apply to obtain a duplicate license or licenses, as specified.

6) Authorizes a music venue licensee to sell, serve, and permit consumption of alcoholic beverages to guests during private events or private functions not open to the general public within any hours of operation, regardless of whether any live performance occurs, as specified. A music venue licenseholder must keep records to show compliance of this provisions and make those records available to the Department of ABC upon request.

Background

Purpose of the Bill. According to the author's office, "Senate Bill 76 will allow [the City and County of San Francisco] to designate temporary 'Entertainment Zones,' where restaurants and bars will be able to sell alcoholic beverages for consumption in a specified zone. Under current law, cities can designate open container zones for festivals, parades, etc. but only outside vendors are allowed to sell alcohol in the zone – local brick and mortar restaurants and bars inside the entertainment zone are prohibiting from selling alcohol. SB 76 allow [the City and County of San Francisco) to create [a] temporary Entertainment Zone that allow neighborhood businesses to participate on equal footing with outside vendors in an attempt to aid their economic recovery."

State v. Local Control of Alcohol Policy. The Department of ABC is vested with the exclusive authority to license and regulate the manufacture, distribution, and sale of alcoholic beverages within California. Existing law requires the Department of ABC to notify specified local officials of an application for the issuance or transfer of a liquor license and prohibits the Department of ABC from issuing or transferring a license until at least 30 days after these notices are provided. Local officials are also allowed to file a protest against the issuing of the license.

Over the years, local governments have petitioned the Legislature for greater authority to directly regulate establishments that sell alcohol in their respective communities. Much of this activity has been centered on local government's use of zoning laws and conditional use permits that place operating conditions on new businesses that sell alcohol.

This bill authorizes any on-sale licensee, a licensed beer manufacturer, a licensed winegrower, and a music venue licensee in the City and County of San Francisco to sell alcoholic beverages for consumption off the premises as long as the licensed premises are within an entertainment zone. Unlike open container zones, which are ultimately the responsibility of local governments, this bill contains minimal standards for entertainment zones and restrictions for licensees seeking to participate in entertainment zones.

This bill does not require any local governments to create such zones, establish a process for the creation of such zones, or require any licensee to participate in any event at an entertainment zone. Rather, this bill simply authorizes specified alcohol licensees in the City and County of San Francisco to sell alcoholic beverages for consumption off their licensed premises under specified conditions. Currently, even if the City and County of San Francisco were to create such zones, licensees could be in violation of the ABC Act since their license might only allow for the sale of alcoholic beverages for consumption on the licensed premises.

Music Venue License. Last year, SB 793 (Wiener, Chapter 468, Statutes of 2022) created the music venue license which authorizes a music entertainment facility to sell beer, wine, and distilled spirits for consumption on the licensed premises only during the time period from two hours before a live performance until one hour after the live performance. The license allows a person under the age of 21 years of age to enter the premises however the bill does make it clear that nothing in the music venue license authorizes the licensee to sell, furnish or give any alcoholic beverages to a person under 21 years of age. It should be noted that allowing

persons under the age of 21 to enter a licensed premises is not unique to a music venue license. There are a handful of alcohol licenses issued by the Department of ABC that authorize persons under the age of 21 to enter the licensed premises.

This bill allows a Music Venue licensee to obtain a duplicate license and to sell alcoholic beverages at private events, regardless of whether a live performance takes place.

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

According to the Senate Appropriations Committee, unknown fiscal impact to the Department of ABC for potential increased enforcement activities related to licensees' activities in established entertainment zones. Actual enforcement workload to the Department of ABC will depend on the number of local jurisdictions that will authorize and establish entertainment zones, the number of zones established, and the number of licensed premises located within each zone.

Furthermore, one-time cost of approximately $40,000 for the Department of ABC to build a page on its webpage to allow licensees to notify the department prior to participating in an entertainment zone and provide all of the required information specified in the bill (Alcohol Beverage Control Fund). The department notes these costs are not absorbable within existing IT maintenance resources.

Finally, unknown but likely absorbable workload for the department to conduct licensing investigations related to issuing catering permits and event licenses to music venue licensees. Unknown increased revenue for new caterer's permits under music venue licenses may offset the department's administrative costs to administer the permit.

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

According to the Assembly Appropriations Committee, costs of an unknown, but potentially significant amount, to the Department of ABC to provide enforcement of licensees selling alcohol within an entertainment zone, especially if many expansive zones are established, thus encompassing a large number of licensees exercising a new privilege. The Department ABC notes any entertainment zone would be established and regulated by the local jurisdiction, not the Department of ABC, so the Department of ABC cannot predict the volume of local jurisdictions that may authorize a zone, how many zones may be created, and the size and rules of those zones.

The Department of ABC also anticipates a one-time information technology costs of approximately $40,000 to build a portal on its website for licensees to annually provide notice to the Department of ABC about the licensee's intent to participate in an entertainment zone.

Finally, minor and absorbable costs to the Department of ABC to expand Type 90 license privileges and provide related enforcement.

SUPPORT: (Verified 9/7/23)

Bay Area Council (co-source)
National Independent Venue Association of California (co-source)
California Nightlife Association
California Restaurant Association
City and County of San Francisco
Golden Gate Restaurant Association
Sacramento Metro Chamber
San Francisco Chamber of Commerce
Santa Monica Chamber of Commerce

OPPOSITION: (Verified 9/7/23)

Alcohol Justice
California Alcohol Policy Alliance
California Council on Alcohol Problems

ARGUMENTS IN SUPPORT: According to the City and County of San Francisco, "SB 76 would enable [the City of San Francisco] to designate [an] 'entertainment zone,' within which restaurants and bars would be able to sell to-go alcoholic beverages for consumption inside the zones. This would provide an important new source of revenue to help restaurants and bars pay off debts accrued during the pandemic. Similar programs to create 'outdoor refreshment areas' have proven successful in supporting small business and downtown districts in several other states, including Michigan, Ohio, and North Carolina."

ARGUMENTS IN OPPOSITION: According to Alcohol Justice, "between the overall lack of oversight of customers, the lack of any established guiderails on attendees, the likely recklessness with which high-volume 'pump and chug' service will proceed, the lack of an expectation of any licensee-provided or local government-provided security, and the general ability to be lost in the chaos that

accompanies this kind of service environment, it will be extraordinary easy for youth to obtain alcohol within these entertainment zones."

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
9/13/23 20:40:45

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

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

UNFINISHED BUSINESS

Bill No: SB 81
Author: Skinner (D) and Becker (D), et al.
Amended: 9/7/23
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 4/25/23
AYES: Wahab, Bradford, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 29-10, 5/31/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Grove, Hurtado, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Roth

ASSEMBLY FLOOR: Not available

SUBJECT: Parole hearings

SOURCE: Author

DIGEST: This bill requires the Board of Parole Hearings (BPH) to notify a parole candidate of their right to appeal a parole denial; authorizes BPH to appoint counsel to assist the parole candidate with filing a habeas petition challenging a parole denial upon the parole candidate's request; establishes that a parole candidate who has been denied parole after reaching their minimum eligible parole date, youth parole eligible date, or elderly parole eligible date has made a prima

facie case for habeas relief; and changes the court's standard of review for parole denials from "some evidence" to "preponderance of the evidence."

Assembly Amendments remove several provisions of the bill, including those that would have prohibited BPH from considering any discriminatory factor in reaching a finding of unsuitability for parole, required BPH to articulate the relationship between each reason for denial and the parole candidate's current risk of violence when stating reasons for its decision to deny parole, and required BPH to track and publish data on the outcomes of court decisions in which a parole decision was challenged, among others.

ANALYSIS:

Existing law:

1) Provides that the panel or the board, sitting en banc, shall grant parole to an incarcerated individual unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. (Pen. Code, § 3041, subd. (b)(1).)

2) Requires BPH, within 20 days following any decision denying parole, to send the incarcerated individual a written statement setting forth the reason or reasons for denying parole, and suggests activities in which he or she might participate that will benefit him or her while he or she is incarcerated. (Pen. Code, § 3041.5, subd. (b)(2).)

3) Establishes the youth offender parole hearing process for eligible individuals who were convicted of a controlling offense that was committed when the person was 25 years of age or younger and after serving a minimum amount of time, as specified. Defines "youth parole eligible date" as the earliest date upon which a youth offender is eligible for release on parole at a youth offender parole hearing. (Pen. Code, § 3051, subds. (a) & (b).)

4) Requires BPH, when considering the release of an individual via the youth offender parole process, to give great weight to the diminished culpability of youth as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the individual in accordance with relevant case law. (Pen. Code, § 4801, subd. (c).)

5) Establishes the Elderly Parole Program to be administered by BPH for purposes of reviewing the parole suitability of any incarcerated person who is 50 years of age or older and has served a minimum of 20 years of continuous incarceration on the individual's current sentence, serving either a determinate or indeterminate sentence. Defines "elderly parole eligible date" as the date on which an incarcerated individual who qualifies as an elderly offender is eligible for release from prison. (Pen. Code, § 3055, subds. (a) & (b).)

6) Requires BPH, when considering the release of an individual via the Elderly Parole Program, to give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence. (Pen. Code, § 3055, subd. (c).)

7) Defines "unreasonable risk of danger to public safety" to mean an unreasonable risk that the individual will commit a new violent felony, as defined. (Pen. Code, § 1170.18, subd. (c).)

This bill:

1) Requires BPH to notify the parole candidate of their right to petition a court for habeas relief upon denial of parole.

2) Provides that the parole candidate may request the assistance of counsel for the purpose of petitioning a court for habeas relief. Authorizes the court to appoint counsel upon the request of the parole candidate.

3) Provides that a parole candidate who has been denied parole after reaching their minimum eligible parole date, their youth parole eligible date, or their elderly parole eligible date has made a prima facie case for relief and provides that the reviewing court may not summarily deny a petition for writ of habeas corpus filed pursuant to the provisions of this bill.

4) Requires a court reviewing a decision to deny parole to uphold the decision to deny parole only if the court finds, by a preponderance of the evidence, that the person presents a current, unreasonable risk of danger to others. Authorizes the court, if it finds the parole denial was not supported by a preponderance of the evidence, to order a new parole hearing, with or without limitations on what evidence BPH may consider.

Background

Parole Suitability

Incarcerated individuals who are indeterminately sentenced must be granted parole by the BPH in order to be released from prison. The Penal Code provides that the parole board "shall grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual." (Pen. Code, § 3041, subd. (b).) The fundamental consideration when making a determination about an individual's suitability for parole is whether the individual currently poses an unreasonable risk of danger to society if released from prison. (*In re Shaputis* (2008) 44 Cal.4th 1241.) The decision whether to grant parole is an inherently subjective determination. (*In re Rosenkrantz* (2002) 29 Cal.4th 616, 655.)

In deciding whether to grant parole, the BPH must consider all relevant and reliable information available. (Cal. Code Regs., tit. 15, § 2281, subd. (b).) Factors the BPH must consider include the nature of the commitment offense, including the circumstances of the person's social history; past and present mental state; past criminal history, including involvement in other criminal misconduct which is reliably documented; the base and other commitment offenses, including behavior before, during and after the crime; past and present attitude toward the crime; any conditions of treatment or control, including the use of special conditions under which the individual may safely be released to the community; and any other information which bears on the individual's suitability for release. (Cal. Code Regs., tit. 15, §§ 2281, subd. (b).) The regulations further state that "[c]ircumstances which taken alone may not firmly establish unsuitability for parole may contribute to a pattern which results in a finding of unsuitability." (*Ibid*.)

Although the parole board is required to consider the circumstances of the offense, the California Supreme Court has held that the parole board may not rely solely on the commitment offense when deciding to grant parole unless the circumstances of the offense "continue to be predictive of current dangerousness." (*In re Lawrence* (2008) 44 Cal.4th 1181, 1221.) The parole board is prohibited from requiring an admission of guilt to any crime for which an incarcerated person was committed to CDCR when considering whether to grant an inmate parole. (Pen. Code, § 5011, subd. (b).) However, "an implausible denial of guilt may support a finding of current dangerousness, without in any sense requiring the inmate to admit guilt as a

condition of parole….it is not the failure to admit guilt that reflects a lack of insight, but the fact that the denial is factually unsupported or otherwise lacking in credibility." (*In re Shaputis* (2011) 53 Cal.4th 192, 216.) Although the term "insight" is not explicitly included in the regulations, the regulations "direct the Board to consider the inmate's 'past and present attitude toward the crime' and 'the presence of remorse,' expressly including indications that the inmate 'understands the nature and magnitude of the offense'.… fit[ting] comfortably within the descriptive category of 'insight.'" (*Id*. at 218 (citations omitted).)

Additional guidance for making parole suitability determinations is provided in the regulations which list circumstances tending to show suitability and those tending to show unsuitability. The circumstances which tend to show suitability and unsuitability for parole are set forth as general guidelines, and the importance attached to any circumstance or combination of circumstances in a particular case is left to the judgment of the panel. (Cal. Code of Regs., tit. 15, § 2281, subds. (c) & (d).)

Parole Denials

A finding of unsuitability for parole results in a denial of parole. When BPH denies an individual parole, Penal Code section 3041.5 requires the board to send the individual a written statement within 20 days following the decision setting forth the reason or reasons for denying parole, and to suggest activities in which the individual might participate that will benefit the individual while the person is incarcerated. (Pen. Code, § 3041.5, subd. (b)(2).)

Californian Department of Corrections and Rehabilitation (CDCR) regulations provide that upon a decision to deny parole, the panel must schedule the next parole hearing for three, five, seven, ten, or fifteen years into the future. Regulations require the panel to make an assessment regarding the appropriate denial length in decreasing amounts beginning with a fifteen-year denial, and each reduction in parole denial length must be supported by clear and convincing evidence that the criteria relevant to the decision denying parole are such that consideration of the public and victim's safety does not require that lengthy of a denial. (Cal. Code of Regs., tit. 15, § 2270, subd. (c).)

The regulations pertaining to denial lengths are consistent with those required by Proposition 9, Marsy's Law, which was approved by the voters on November 4, 2008 and codified in Penal Code section 3041.5. BPH may in its discretion, after considering the views and interests of the victim, advance a subsequent parole

hearing to an earlier date, when a change in circumstances or new information establishes a reasonable likelihood that consideration of the public and victim's safety does not require the additional period of incarceration of the individual. (Pen. Code, § 3041.5, subd. (b)(4).) An incarcerated individual may also petition the board to exercise its discretion to advance a subsequent parole hearing to an earlier date, by submitting a written request, setting forth the change in circumstances or new information that establishes a reasonable likelihood that consideration of the public safety does not require the additional period of incarceration of the individual. (Pen. Code, § 3041.5, subd. (d)(1).)

At a subsequent parole hearing, an individual who was previously denied parole must be reconsidered for parole in the same manner as at the initial parole hearing, and the hearing panel must consider the same information considered at the initial parole hearing and any information developed since the last hearing. (Cal. Code. Regs., tit. 15, § 2270, subd. (a).)

An individual who is denied parole may challenge the decision by filing a habeas petition. (*In re Sturm*, 11 Cal.3d 258, 269.) In reviewing a parole denial, "the court may inquire only whether some evidence in the record before the Board supports the decision to deny parole, based upon the factors specified by statute and regulation." (*In re Rosenkrantz*, supra, 29 Cal.4th at p. 658.) If the parole decision is "not supported by some evidence in the record and thus is devoid of a factual basis, the court should grant the prisoner's petition for writ of habeas corpus and should order the Board to vacate its decision denying parole and thereafter to proceed in accordance with due process of law." (*Ibid*.) While "[t]his standard is unquestionably deferential, … [it] certainly is not toothless, and 'due consideration' of the specified factors requires more than rote recitation of the relevant factors with no reasoning establishing a rational nexus between those factors and the necessary basis for the ultimate decision—the determination of current dangerousness." (*In re Lawrence*, supra, 44 Cal.4th at p. 1210.)

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

According to the Assembly Appropriations Committee:

Costs to the California Department of Corrections and Rehabilitation (CDCR) (General Fund (GF)) of an unknown amount, likely in the millions of dollars annually, for increased workload to BPH, parole supervision, and litigation. CDCR anticipates that this bill will result in more grants of parole and more people released from prison under parole supervision. For each parole grant, BPH staff conducts an internal decision review process before the incarcerated person may be

released from prison. Per CDCR, parole supervision costs an average of $15,579 per person annually. Actual BPH staffing and parole supervision costs will depend on the number of parole grants issued by BPH and the number of habeas petitions granted by the courts. These costs will likely be offset by significant savings to CDCR due to decreased incarceration. According to a 2022 estimate by the Legislative Analyst's Office, the average annual cost per CDCR inmate is $106,000.

Costs (Legal Services Revolving Fund, GF) in the low millions of dollars annually to DOJ to represent CDCR in habeas litigation. DOJ predicts an additional 300 habeas petitions will be filed annually as a result of this bill, requiring additional attorneys, legal analysts, and legal secretaries to handle the caseload, plus an additional non-legal analyst to handle the corresponding administrative workload. DOJ reports estimated staffing costs of approximately $2.8 million in fiscal year 2023-24 and $4.9 million in fiscal year 2024-25 and ongoing. Litigation costs would be reimbursable through direct billings to CDCR; non-legal staffing would require GF funds.

Costs (Trial Court Trust Fund, GF) in the millions of dollars annually to the courts to adjudicate habeas petitions, provide attorneys to inmates, and complete the bill's reporting requirements. The courts do not currently collect the habeas data required under this bill. Judicial Council estimates annual workload cost pressures in the hundreds of thousands to low millions of dollars for additional hearings, depending on the number of habeas petitions filed, plus costs of $2.15 million one-time and $3.4 million ongoing to establish and maintain a data collection system for habeas case information. Judicial Council notes that it would need a two-year delayed implementation due to competing IT projects. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the GF. The 2023-24 budget includes $105 million from the GF to backfill declining revenue to the Trial Court Trust Fund.

SUPPORT: (Verified 9/11/23)

ACLU California Action
American Friends Service Committee
California Alliance for Youth and Community Justice
California Attorneys for Criminal Justice
California Coalition for Women Prisoners
California Families Against Solitary Confinement

California Innocence Coalition: Northern California Innocence Project, California Innocence Project, Loyola Project for the Innocent
California Public Defenders Association
California for Safety and Justice
Californians United for a Responsible Budget
Center on Juvenile and Criminal Justice
Communities United for Restorative Youth Justice
CURE California
Ella Baker Center for Human Rights
Felony Murder Elimination Project
Friends Committee on Legislation of California
Initiate Justice
Initiate Justice Action
Legal Services for Prisoners With Children
Root & Rebound
Safe Return Project
San Francisco Public Defender
Showing Up for Racial Justice Bay Area
Sister Warriors Freedom Coalition
Smart Justice California
Survived & Punished
UnCommon Law
Young Women's Freedom Center
8 individuals

OPPOSITION: (Verified 9/11/23)

California District Attorneys Association
Monterey County District Attorney's Office
Yolo County District Attorney

Prepared by: Stephanie Jordan / PUB. S. /
9/13/23 20:52:54

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

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

UNFINISHED BUSINESS

Bill No: SB 97
Author: Wiener (D)
Amended: 9/6/23
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 3/28/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones
NO VOTE RECORDED: Seyarto

SENATE FLOOR: 37-0, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Dahle, Jones, Seyarto

ASSEMBLY FLOOR: Not available

SUBJECT: Criminal procedure: writ of habeas corpus

SOURCE: California Innocence Coalition: California Innocence Project, Northern California Innocence Project, Loyola Project for the Innocent

DIGEST: This bill refines the process by which those who are wrongfully convicted can prove their innocence and have their convictions reversed.

Assembly Amendments provide that:

1) New evidence is evidence not previously presented or heard at trial that has been discovered after trial.

2) Clarify that a petitioner incarcerated in state prison may chose not to appear in person and may appear remotely.

ANALYSIS:

Existing law:

1) Provides that every person unlawfully imprisoned or restrained of their liberty, under any pretense, may prosecute a writ of habeas corpus to inquire into the cause of the imprisonment or restraint. (Penal Code § 1473(a).)

2) States that a writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:

   a) False evidence that is substantially material or probative on the issue of guilt, or punishment was introduced against a person at any hearing or trial relating to his incarceration;

   b) False physical evidence believed by a person to be factual, material or probative on the issue of guilt, which was known by the person at the time of entering a plea of guilty and which was a material factor directly related to the plea of guilty by the person.

   c) New evidence exists that is credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome of the trial. "New evidence" is evidence that was discovered after trial that could not have been discovered before trial and is admissible.(Penal Code § 1473 (b))

3) Provides that any allegation that the prosecution knew or should have known of the false nature of the evidence is immaterial to the prosecution of a writ of habeas corpus. (Penal Code § 1473(c).)

4) States that nothing in this section shall be construed as limiting the grounds for which a writ of habeas corpus may be prosecuted or as precluding the use of any other remedies. (Penal Code § 1473(d).)

5) Provides that "false evidence" includes opinions of experts that have either been repudiated by the expert who originally provided the opinion at a hearing or

trial or have been undermined by later scientific research or technological advances. (Penal Code § 1473(e)(1).)

6) Provides that this section does not create additional liabilities, beyond these already recognized, for an expert who repudiates the original opinion provided at a hearing or trial or whose opinion has been undermined by later scientific research. (Penal Code § 1473(e)(2).)

This bill:

1) Allows a person to prosecute a writ of habeas corpus if expert opinion testimony that was material at a hearing or trial relating to incarceration and a significant dispute has emerged or further developed in the petitioner's favor regarding expert, medical, scientific, or forensic testimony that was introduced at trial or a hearing and that expert testimony more likely that not affected the outcome of the case.

2) Allows a person to prosecute a writ of habeas corpus if new evidence is presented without substantial delay is admissible and sufficiently credible than it more likely than not would have changed the outcome of the case and defines new evidence as evidence discovered after a trial that has not previously been presented and heard.

3) Provides that if the court holds an evidentiary hearing with a signed or oral waiver on record, a person who is incarcerated in state prison may appear remotely, and the court may conduct the hearing through the use of remote technology, unless counsel indicates that the defendant's presence in court is needed.

4) Provides that if the district attorney in the county of conviction or the Attorney General concedes or stipulates to a factual or legal basis for habeas relief, there shall be a presumption in favor of granting relief. This presumption may be overcome only if the record before the court contradicts the concession or stipulation or it would lead to the court issuing an order contrary to law.

5) Provides that if after the court grants postconviction relief under this section and the prosecuting agency elects to retry the petitioner, the petitioner's postconviction counsel may be appointed as counsel or co-counsel to represent the petition on the retrial if both of the following requirements are met:

   a) The petitioner and postconviction counsel both agree for postconviction counsel to be appointed.

b) Postconviction is qualified to handle trials.

6) Provides that counsel shall be paid under the applicable pay scale for appointed counsel, otherwise the court shall appoint other appropriate counsel.

Background

This bill makes a number of changes to refine the process by which those who are wrongfully convicted can prove their innocence and have their convictions reversed.

1) *New evidence*

This bill makes changes to the provisions regarding when new evidence can be used as the basis for a habeas petition. It brings the existing new evidence standard into conformity with other standards like *Brady* and IAC (ineffective assistance of counsel).

2) *District Attorney or Attorney General stipulation*

This bill creates a presumption that if the district attorney in the county of conviction or the Attorney General concedes or stipulates to a factual or legal basis for habeas relief, there should be a presumption in favor of granting relief that should be overcome only if the record before the court contradicts the concession or stipulation. According to the background information provided by the author a number or jurisdiction have given little weight to a district attorney's stipulation, which may result in unnecessary proceedings.

3) *Appointment of counsel*

This bill makes it clear that if postconviction relief is granted, and the district attorney elects to retry the case, then the defendant can have the postconviction counsel appointed as their attorney, if they are qualified trial counsel, instead of the public defender. This will allow a continuation of representation.

4) *Technical changes*

This bill makes a number of other technical changes to help streamline and clarify the postconviction process.

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

According to the Assembly Appropriations Committee:

1) Costs (Trial Court Trust Fund, General Fund) to the courts of an unknown but potentially significant amount. This bill allows habeas petitions to be filed in circumstances that are not permitted under existing law, which may result in an increase of petitions filed, with related hearings and workload to the courts. The Judicial Council is unable to quantify the potential increase in hearings; actual costs to the courts will depend on the number of petitions filed and the amount of court time needed to adjudicate each petition. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the General Fund. The 2023-24 Budget includes $105 million from the General Fund to backfill declining revenue to the Trial Court Trust Fund.

2) Costs (General Fund) in the tens of thousands of dollars annually to the Department of Justice (DOJ) to respond to habeas petitions and compensation claims filed as a result of this bill. DOJ anticipates an annual increase of about 10 habeas petitions and five petitions for erroneous conviction compensation due to this bill, resulting in workload costs of approximately $34,000 in fiscal year (FY) 2023-24 and $68,000 in FY 2024-25 and ongoing. Actual costs to DOJ will depend on the number of petitions filed and the amount of attorney time needed to handle each petition.

3) Potential savings (General Fund) to the California Department of Corrections and Rehabilitation in reduced incarceration costs. If this bill results in additional habeas petitions being filed and granted, it may lead to a corresponding reduction in the state prison population.

SUPPORT: (Verified 9/7/23)

California Innocence Coalition: California Innocence Project, Northern California Innocence Project, Loyola Project for the Innocent (source)
California Public Defenders Association
Californians United for A Responsible Budget
Communities United for Restorative Youth Justice
Ella Baker Center for Human Rights
Initiate Justice
Legal Services for Prisoners with Children
National Association of Social Workers, California Chapter
Prosecutors Alliance California

Secure Justice
Smart Justice California
University of San Francisco School of Law | Racial Justice Clinic

OPPOSITION: (Verified 9/7/23)

None received

ARGUMENTS IN SUPPORT: According to the California Innocence Coalition: California Innocence Project, Northern California Innocence Project, Loyola Project for the Innocent:

> Though California's habeas corpus law is more comprehensive than most states', decades of revisions and amendments have created unintended obstacles and barriers to cases warranting relief, even when both the prosecution and the defense agree that the person is innocent. One example is when Courts order that investigations and hearings be carried out even after prosecutors determine a person has been wrongfully convicted, citing that existing law was not clear enough to allow them to grant relief or reverse the conviction. As a result, innocent people lose years to unnecessary litigation.
>
> SB 97 aims to eliminate confusion and unnecessary litigation surrounding technical requirements within California's habeas laws to ensure Courts are given the discretion to scrutinize the integrity of a conviction and grant relief. It also creates a new statutory habeas claim that allows Courts to consider the totality of a case to determine if a wrongful conviction has occurred. SB 97 additionally guarantees the wrongfully convicted are provided the opportunity for continuous counsel in their cases. Further, this bill allows the state to initiate proceedings when it discovers a person has been wrongfully convicted, and directs Courts to give great weight to a prosecutor's determination and concession that a person has been wrongfully convicted.
>
> With the increase in prosecutor attention to wrongful convictions, these laws can be improved to ensure we rectify these wrongs. These clarifications in the law are necessary for California to ensure that the wrongfully convicted are given an equitable process to prove their innocence. All Californians—but particularly those who are wrongly incarcerated—deserve a penal system

that can evolve and recognize its mistakes accordingly.

Prepared by: Mary Kennedy / PUB. S. /
9/13/23 20:45:17

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

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

UNFINISHED BUSINESS

Bill No: SB 105
Author: Skinner (D)
Amended: 9/11/23
Vote: 21- Urgency

SENATE FLOOR: Not relevant

ASSEMBLY FLOOR: Not available

SUBJECT: Budget Acts of 2022 and 2023

SOURCE: Author

DIGEST: This bill amends the 2023 and 2022 budget acts to reflect changes necessary to update the 2023 budget agreement assuming the prior adoption and chaptering of SB 104, which amends the budget act to finalize budget details and address technical issues.

Assembly Amendments delete the Senate version of the bill and instead add the current language.

ANALYSIS: This bill makes the following changes:

1) Removes $3 million provided to the Department of Industrial Relations to resume the operations of the Industrial Welfare Commission;

2) Includes and corrects funding authority for federal American Rescue Plan Act funding provided for afterschool and summer programs;

3) Removes an unneeded reappropriation of a 2021 legislative priority administered by the Natural Resources Agency;

4) Provides the Energy Commission with spending authority for approximately $102.8 million in additional federal grant funds;

5) Reappropriates federal funds budgeted for the Energy Commission in the 2018 budget Act; and

6) Corrects provisional language related to the reappropriation of facilities development funding at the Department of Health Care Access and Information.

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

SUPPORT: (Verified 9/11/23)

None received

OPPOSITION: (Verified 9/11/23)

None received

Prepared by: Elisa Wynne / B. & F.R. / (916) 651-4103
9/13/23 20:40:47

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

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

UNFINISHED BUSINESS

Bill No: SB 264
Author: Niello (R)
Amended: 6/19/23
Vote: 21- Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/3/23
AYES: Caballero, Seyarto, Dahle, Durazo, Glazer, Skinner, Wiener
NO VOTE RECORDED: Blakespear

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 38-0, 5/18/23 (Consent)
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Durazo, Eggman, Glazer, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Dodd, Gonzalez

ASSEMBLY FLOOR: 80-0, 9/11/23 - See last page for vote

SUBJECT: Income taxes: deduction: disaster losses

SOURCE: Author

DIGEST: This bill extends the sunset on the ability for taxpayers to deduct disaster losses until the 2028 taxable year.

Assembly Amendments delete an unnecessary section.

ANALYSIS:

Existing law:

1) Allows various income tax credits, deductions, exemptions, and exclusions.

2) Establishes that it does not automatically conform to changes in federal tax law, except for specific retirement provisions; instead, the Legislature must affirmatively conform to federal changes.

3) Allows, in conformity with federal law, taxpayers to elect to claim a loss sustained from a disaster, either in the year the loss occurs or in the year preceding the loss (SB 35 (Wolk, Chapter 230, Statutes of 2015)).

4) Permits the deduction under both the Personal Income and Corporation Taxes.

5) Specifies that for state tax purposes, the disaster must occur in any city, county, or city and county in this state that is proclaimed by the Governor to be in a state of emergency

6) Provides that any loss claimed as a deduction cannot be compensated for by insurance or otherwise.

7) Allows taxpayers to claim the loss notwithstanding any tax filing deadline extension, or suspension of net operating losses for the taxable year where the taxpayer claims the deduction, with one exception, and updates the cross reference for the exception.

8) Sunsets its provisions after the 2023 taxable year, and repeals the section on December 1, 2024.

This bill:

1) Extends the sunset on California's conformity to federal disaster loss treatment in the Personal Income and Corporation Tax Laws until the 2028 taxable year, and its repeal date until December 1, 2029.

2) Contains legislative findings and declarations to comply with Section 41 of the Revenue and Taxation Code.

Background

There have been many Governor-proclaimed disasters in recent years. Over the past few months, the Governor has proclaimed the following disasters:

- April 2023 – severe winter storms in the counties of Contra Costa, Riverside, San Diego, and Yolo

- February/March 2023 – severe winter storms in the counties of Alameda, Alpine, Amador, Butte, Calaveras, Del Norte, El Dorado, Fresno, Glenn,

Humboldt, Imperial, Inyo, Kern, Kings, Lake, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Sacramento, San Benito, San Bernardino, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Sonoma, Stanislaus, Trinity, Tulare, Tuolumne, and Yuba

- December 2022/January 2022 – severe winter storms in all counties
- December 2022 – earthquake in Humboldt county
- September 2022 – tropical storm in the counties of Imperial, Inyo, Los Angeles, Riverside, and San Bernardino

This bill extends California's conformity with federal law to allow taxpayers to claim disaster loss deductions resulting from future disasters in either the current or previous taxable year, thereby allowing taxpayers file an amended return claiming the loss, and receive an immediate tax refund.

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

According to the Assembly Appropriations Committee:

- General Fund (GF) revenue loss of approximately $6,000 per disaster, based on historical data. For reference, the Governor issued 19 emergency proclamations in 2021 related to multi-county drought, fires, heat waves, high winds, and winter storms, as well as a pipeline spill. However, as the frequency and severity of disasters continue to increase in California, there will likely be a corresponding increase in GF revenue loss. To the extent there are more than 25 relevant disasters in a year, GF revenue loss could exceed $150,000 that year.
- GF revenue loss stems from affected taxpayers electing to claim a disaster loss and amend their prior year tax returns instead of waiting to claim a casualty loss when filing their current year tax returns. FTB assumes a taxpayer would choose the loss reporting option most beneficial to their financial situation.
- Minor and absorbable costs to FTB to continue administering the deduction and report specified data to the Legislature.

SUPPORT: (Verified 9/11/23)

California Farm Bureau Federation

OPPOSITION: (Verified 9/11/23)

None received

ARGUMENTS IN SUPPORT: According to the author, "California has seen numerous types of disasters in recent years ranging from wildfires, winter flooding and earthquakes. Current law has helped provide tax relief automatically when the Governor or President proclaims a state of emergency but will expire next year. SB 264 extends the sunset date for the Disaster Loss Tax Deduction for 5 years, allowing individuals impacted by disasters to continue receiving tax relief."

ASSEMBLY FLOOR: 80-0, 9/11/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
9/11/23 20:12:40

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

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

UNFINISHED BUSINESS

Bill No: SB 271
Author: Dodd (D), et al.
Amended: 9/8/23
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 4/17/23
AYES: Roth, Nguyen, Alvarado-Gil, Archuleta, Ashby, Becker, Dodd, Eggman, Glazer, Niello, Smallwood-Cuevas, Wahab, Wilk

SENATE JUDICIARY COMMITTEE: 11-0, 4/25/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello, Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-1, 5/18/23
AYES: Portantino, Ashby, Bradford, Seyarto, Wahab, Wiener
NOES: Jones

SENATE FLOOR: 38-0, 5/30/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Grove, Jones

ASSEMBLY FLOOR: Not available

SUBJECT: Powered wheelchairs: repair

SOURCE: The California Foundation for Independent Living Centers and Consumer Reports

DIGEST: This bill requires an original manufacturer, as defined, of a powered wheelchair to provide a wheelchair owner or independent repair provider the

necessary parts and equipment used to inspect, diagnose, maintain, and repair the wheelchair. It also subjects an original equipment manufacturer who knowingly violates these provisions to specified civil penalties, and authorizes a person injured by a violation of these provisions and the Attorney General or a district attorney, county counsel, or city attorney to bring a civil action for this purpose. This bill also prohibits the Department of Health Care Services (DHCS) from requiring prior authorization for the repair of a powered wheelchair, among other things.

Assembly Amendments update civil penalty liability amounts and included a three-day right to cure the violation before a civil penalty is imposed for the first violation; specify that an action brought for a violation shall be commenced within three years from the date of the alleged violation; specify that beginning January 1, 2025 until January 1, 2029, prior authorization for powered wheelchair repair is not be required if the cost is below $1,250 and made various technical and conforming changes.

ANALYSIS:

Existing law:

1) Establishes the Electronic and Appliance Repair Dealer Registration Law (EAR Law) to regulate service dealers and service contracts that address the maintenance, replacement, or repair of consumer goods. (Business and Professions Code (BPC) §§ 9800 et seq., 9810.)

2) Establishes the Song-Beverly Consumer Warranty Act (Act), which sets forth standards for warranties that govern consumer goods, and outlines remedies available to purchasers. (Civil Code § 1790 et seq.)

3) Establishes the Sherman Food, Drug, and Cosmetic Law to regulate the manufacture, production, processing, and packing of any food, drug, device, or cosmetic, enforced by the California Department of Public Health (CDPH). (Health & Safety Code (HSC), §§ 109875 et seq.)

4) Permits CDPH to establish performance standards for devices to provide reasonable assurances of safe and effective performance and, where appropriate, require the use and prescribe the form and content of labeling for the proper installation, maintenance, operation, or use of the device; however, where specified federal laws dictate device performance standards, that federal standard governs in California. (HSC § 111245)

5) Requires generally that no person can conduct a home medical device retail facility business in California unless he or she has obtained a license from CDPH. (HSC § 111656)

6) States that when CDPH recognizes a high standard of patient safety, consistent with good patient care, can be provided by the licensure of a home medical device retail facility that does not meet all of the requirements for licensure as a home medical device retail facility, CDPH may waive any licensing requirements for that medical device retail facility. (HSC § 111656.9)

7) Requires certain medical device manufacturers to provide certain information to the federal Food and Drug Administration (FDA) relating to the devices they manufacture, including reports on adverse events involving a device and reports on repairs or removals of their devices initiated by the manufacturer. (*E.g.*, 21 C.F.R. §§ 803.10, 806.10.)

This bill requires an original manufacturer, as defined, of a powered wheelchair to provide a wheelchair owner or independent repair provider the necessary parts and equipment used to inspect, diagnose, maintain, and repair the wheelchair. It also subjects an original equipment manufacturer who knowingly violates these provisions to specified civil penalties, and authorizes a person injured by a violation of these provisions and the Attorney General or a district attorney, county counsel, or city attorney to bring a civil action for this purpose within three years from the date of the alleged violation. This bill also prohibits the Department of Health Care Services (DHCS) from requiring prior authorization for the repair of a powered wheelchair if the cost does not exceed $1250, beginning January 1, 2025 until January 1, 2029, among other specifications.

Background

BHGS, EAR, and The Song-Beverly Consumer Warranty Act. BHGS, within DCA, is responsible of the oversight and regulation of the Electronic and Appliance Repair Law, the Home Furnishings and Thermal Insulation Act, and the Household Movers Act. Although the Bureau administers three practice acts, the Bureau's regulatory structure is divided into four distinct areas of regulation: 1) home furnishings and thermal insulation, 2) electronic and appliance repair, 3) service contracts, and 4) household movers.

In 1994, service contracts for consumer electronic and home appliance products were added to the EAR regulatory program in response to concerns about companies selling or administering contracts without providing adequate financial backing or properly disclosing the terms and conditions as required by the Song-Beverly Consumer Warranty Act. Products covered under service contracts were expanded in 2004 to include furniture, jewelry, lawn and garden products, and other items used in homes for personal use. In 2014, service contract authority was expanded again to include optical products, such as eyeglasses. On January 1, 2020, the products covered under service contracts were expanded again to include all consumer goods.

The Song-Beverly Consumer Warranty Act sets forth standards for warranties that govern consumer goods, including motor vehicles, home appliances, and home electronic products. The act requires some implied warranties to be included in the sale of consumer goods, such as the implied warranties of merchantability and of fitness. The act also outlines remedies available to purchasers.

The Right To Repair Generally and Existing State Efforts. In the past few years, consumer rights advocates **have pushed** to allow consumers to repair products they own or to be able to choose a repair professional to assist them. For example, if an Apple iPhone needs a new battery, a consumer would have to take the iPhone to the Apple store for repair, rather than being able to replace the battery themselves. On the powered wheelchair front, according to the Author, "manufacturers of powered wheelchairs are not currently required to provide information or replacement parts directly to consumers or independent repair businesses for power wheelchairs." This is a cause that has been taken up in 25 states – including **New York** in the summer of 2022 specifically to repair certain electronic products - and on the federal level with **The Fair Repair Act**. In early 2022, President Biden acknowledged this problem according to **Reuters**, stating that "if you own a product, from a smartphone to a tractor, you don't have the freedom to choose how or where to repair that item you purchased."

More relevant to this bill, Colorado **passed legislation** in 2022 granting powered wheelchair owners the right to repair their own wheelchairs. Specifically, this law requires a manufacturer to provide parts, embedded software, firmware, tools, or documentation, such as diagnostic, maintenance, or repair manuals, diagrams, or similar information, to independent repair providers and owners of the manufacturer's powered wheelchairs to allow an independent repair provider or owner to conduct diagnostic, maintenance, or repair services on the owner's

powered wheelchair. Additionally, this law states a manufacturer's failure to comply with the requirement is a deceptive trade practice.

Medical Devices and Safety Concerns. Wheelchairs are considered a medical devices under FDA standards. Depending on the complexity of the wheelchair, the device can be classified in Class I, II, or III. Class III requires the most rigorous approval in terms of safety and effectiveness on the part of manufacturers, while Class I require the least rigorous approval. According to the **FDA**, powered wheelchairs are most often in Class II of medical devices. When considering whether to grant FDA approval, most powered wheelchairs must demonstrate they are "substantially equivalent" to another device that has already been through FDA's pre-market approval and pre-market notification processes. Companies themselves also subject powered wheelchairs to significant crash testing, etc. to ensure their safety for consumers. While some wheelchairs are generic and can fit most people's needs, some are customized to a patient's body and specific needs.

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

According to the Assembly Committee on Appropriations, the fiscal effect of this bill includes the General Fund cost to the Department of Justice (DOJ) of an unknown but potentially significant amount if the Attorney General brings civil actions to enforce the right created by this bill. Actual costs will depend on the number of violations and whether the Attorney General decides to file enforcement actions on behalf of the state. The fiscal effect also includes Trial Court Trust Fund and General Fund costs of an unknown but potentially significant amount to the courts to adjudicate civil actions authorized by this bill. This bill allows certain public prosecutors and any person injured by a violation of the bill's provisions to file a civil lawsuit. Actual costs will depend on the number of violations, the number of cases filed, and the amount of court time needed to resolve each case. It costs approximately $1,000 to operate a courtroom for one hour.

SUPPORT: (Verified 9/11/23)

Association of Regional Center Agencies
California Commission on Aging
California Foundation for Independent Living Centers
California Senior Legislature
Californians Against Waste
Calpirg, California Public Interest Research Group
Communities Actively Living Independent and Free
Consumer Reports Advocacy

Democrats of Rossmoor
IFixit
Leadingage California
National Federation of Independent Business
National Health Law Program
SCDD
South Bayside Waste Management Authority
Yolo County In-Home Supportive Services Advisory Committee
Yolo Healthy Aging Alliance

OPPOSITION: (Verified 9/11/23)

None received

ARGUMENTS IN SUPPORT: Supporters generally argue that requiring power wheelchair manufacturers to provide access to items necessary to facilitate repairs on equipment owned by a consumer will make it easier for wheelchair owners and smaller shops to fill the repair need.

Prepared by: Dana Shaker / B., P. & E.D. /
9/13/23 20:40:46

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

SENATE RULES COMMITTEE SB 275
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

VETO

Bill No: SB 275
Author: Grove (R)
Amended: 3/16/23
Vote: 27

SENATE NATURAL RES. & WATER COMMITTEE: 10-0, 4/18/23
AYES: Min, Seyarto, Allen, Becker, Dahle, Eggman, Gonzalez, Grove, Laird, Limón
NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 37-0, 5/4/23 (Consent)
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Grove, Hurtado, Jones, Laird, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Blakespear, Gonzalez, Limón

ASSEMBLY FLOOR: 78-0, 6/27/23 (Consent) - See last page for vote

SUBJECT: State Oil and Gas Supervisor: Senate confirmation

SOURCE: Author

DIGEST: This bill makes the appointment of the State Oil and Gas Supervisor, the leader of the Geologic Energy Management Division in the Department of Conservation, subject to confirmation by the Senate.

ANALYSIS:

Existing law:

1) Establishes the Natural Resources and other agencies within state government, requires an agency secretary to be the executive officer of each agency, and requires the agency secretary to hold the head of each department, office, or other unit responsible for management control over the administrative, fiscal, and program performance of his or her department, office, or other unit. (Government Code (GOV) §12800, §12801)

2) Requires an agency secretary to be appointed by and hold office at the pleasure of the Governor, subject to confirmation by the Senate. (GOV §12801)

3) Establishes the Department of Conservation within the Natural Resources Agency, establishes that the Director of Conservation (director) is the executive officer in charge of the Department of Conservation, requires the director to be appointed by and hold office at the pleasure of the Governor, subject to confirmation by the Senate. (Public Resources Code (PRC) §601)

4) Establishes Geologic Energy Management Division (CalGEM) within the Department of Conservation under the direction of the State Oil and Gas Supervisor (supervisor). Provides the director, and the supervisor with the approval of the director, with all powers which may be necessary to carry out the purposes of the state's oil and gas conservation laws. (PRC §3013)

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

This bill makes the appointment of the supervisor subject to confirmation by the Senate.

Background

The California Climate Crisis Act declares state policy to achieve net zero greenhouse gas emissions no later than 2045, and to achieve and maintain net negative greenhouse gas emissions thereafter, and requires the Air Resources Board to update the scoping plan for greenhouse gas emissions reductions to identify and recommend measures to achieve those policy goals, as specified.

(AB 1279, Muratsuchi, Chapter 336, Statutes of 2022) In 2021, California was the top producer of electricity from solar, geothermal, and biomass energy according to the US Energy Information Administration.

California is a major oil and gas producing state. According to the US Energy Information Administration, the state was 7th (2021) and 15th (2021) for oil and marketed natural gas production, respectively, among the 50 states. Production of oil in the state, including state waters, was about 123M barrels in 2022, and continues to decline from the 1985 peak.

There are approximately 128,300 active, new, and idle oil and gas wells in the state (2022 data) and related production facilities located in over 180 oil and gas fields. Many of the state's oil and gas fields have been in production for several decades, and the oil requires more effort – and thus is more expensive - to produce. Oil exploration and production in California started in the 19th century.

California uses more petroleum products than are produced in the state. About 60% of the oil used in California's refineries is imported from other states and foreign countries. Exports of refined products from the state's refineries, however, have increased in recent years.

CalGEM is California's oil and gas production regulator. According to Fiscal Year 2023/2024 budget documents, CalGEM personnel are about half of the authorized personnel at the Department of Conservation (341.9 authorized positions of 688.9 total). Within the Department of Conservation, only the Director of Conservation is subject to confirmation by the Senate.

According to materials obtained from the Office of Governor Newsom, many appointed positions do not require Senate confirmation. In general, members of boards appointed by the Governor – such as the State Water Resources Control Board, the regional water boards, and the Seismic Safety Commission – are subject to Senate confirmation, but not all are. Similarly, the appointed leadership positions at an agency subject to Senate confirmation vary. In some instances, but not all, deputy agency directors and other appointed personnel below the secretary or director level require Senate confirmation. Senate confirmation of gubernatorial appointees is one of the legislative oversight mechanisms over any administration. According to materials provided by the author, over one hundred appointees were confirmed by the Senate annually in recent years.

In the California Natural Resources Agency (CNRA), for example, the Director of the Department of Parks and Recreation (State Parks), and the Director of the Division of Boating and Waterways within State Parks are both appointed by the

Governor and subject to Senate confirmation. At one time, the Division of Boating and Waterways was a separate department within CNRA that was subsequently moved to division status within State Parks. In the Department of Corrections and Rehabilitation, at least 13 subordinates of the Secretary require Senate confirmation, including the undersecretary.

Comments

CalGEM is the largest division within the Department of Conservation.

As noted above, CalGEM personnel make up about half of the Department of Conservation. Should any division leader within the Department of Conservation be subject to Senate confirmation, the supervisor would be the most likely candidate.

Of the 22 acting or permanent supervisors since 1915 when the position was formally established, over 1/3 (eight) have served since 2009. Of these eight, three, including the current one, have acting status, and at least two were fired. Turnover in the position appears to be comparatively high, and it is unknown if or how Senate confirmation would impact the interest of candidates in the position. While the author states that approximately 1,400 notices of intent for well drilling or re-drilling are delayed at CalGEM, the acting supervisor has the existing authority to approve or deny these notices.

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

SUPPORT: (Verified 8/7/23)

California Independent Petroleum Association
Fresno County Board of Supervisors
Greater Tehachapi Chamber of Commerce
Kern Citizens for Energy
Kern County Hispanic Chamber of Commerce
Mayor of the City of Taft, Dave Noerr
San Joaquin Refining Company
Trio Petroleum, LLC
Tulare Chamber of Commerce
White Wolf Land Service

OPPOSITION: (Verified 8/7/23)

None received

ARGUMENTS IN SUPPORT: According to the author, "The California State Senate confirms well over a hundred appointees of the Governor each year. The appointments process gives legislators and the public a chance to understand the Administration's priorities for a given position. As CalGem's responsibilities have grown, it makes sense to include the Oil and Gas Supervisor in the number of Governor appointments subject to Senate confirmation."

GOVERNOR'S VETO MESSAGE:

> This bill would require appointment of the State Oil and Gas Supervisor to be subject to Senate confirmation. I share the Legislature's desire for appointments to be made effectively and transparently, especially when considering California's ambitious and time-sensitive clean energy and carbon neutrality goals.
>
> However, an appointee to this position already undergoes an extensive and exhaustive identification, evaluation, and selection process, a process that ensures the appointee is experienced and fully capable of carrying out our shared policy objectives of protecting public health, safety, and the environment. Additionally, this position falls under the direction and oversight of the Director of Conservation, a gubernatorial appointee that is subject to Senate confirmation.
>
> For these reasons, I am returning this bill without my signature.

ASSEMBLY FLOOR: 78-0, 6/27/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert

Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wood, Rendon
NO VOTE RECORDED: Wilson, Zbur

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
8/7/23 13:32:21

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

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

UNFINISHED BUSINESS

Bill No: SB 286
Author: McGuire (D), et al.
Amended: 9/7/23
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 4/11/23
AYES: Min, Seyarto, Allen, Becker, Eggman, Hurtado, Laird, Limón, Padilla
NO VOTE RECORDED: Dahle, Grove

SENATE ENERGY, U. & C. COMMITTEE: 16-0, 4/24/23
AYES: Bradford, Ashby, Becker, Caballero, Dodd, Durazo, Eggman, Gonzalez, McGuire, Min, Newman, Rubio, Seyarto, Skinner, Stern, Wilk
NO VOTE RECORDED: Dahle, Grove

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 32-5, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Grove, Jones, Nguyen, Niello
NO VOTE RECORDED: Ochoa Bogh, Seyarto, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Offshore wind energy projects

SOURCE: Author

DIGEST: This bill establishes the California Offshore Wind Energy Fisheries Working Group (Working Group) to address offshore wind energy project impacts to certain fisheries and related interests, including the development of a statewide

strategy to minimize impacts to ocean fisheries and providing for reasonable compensation to those affected, and requires the California Coastal Commission (Coastal Commission) to process a consolidated coastal development permit for new development associated with offshore wind energy projects and related transmission facilities, among other things.

Assembly Amendments revise the State Lands Commission's (SLC's) offshore wind energy-related leasing requirements and require the SLC to consider including reasonable compensatory mitigation for unavoidable impacts within a lease, as provided; clarify the California Coastal Commission's (Coastal Commission's) procedure for assessing a consolidated coastal development permit, including tribal engagement, as provided; revise the membership of the Working Group; authorize the Coastal Commission to adopt a statewide strategy, including the framework, on or before Mary 1, 2026; require the Coastal Commission to consult with representatives of labor organizations when reviewing a workforce development plan submitted to the federal government, as provided; and make additional technical and clarifying changes.

ANALYSIS:

Existing law:

1) Authorizes the United States Secretary of the Interior, in consultation with other federal agencies, with the granting of leases, easements, or rights-of-way on the outer Continental Shelf for offshore energy development. (Energy Policy Act of 2005, Title 42, United States Code, §388)

2) Establishes the Coastal Commission.

    a) The California Coastal Act of 1976 (Coastal Act)(PRC §§30000 *et seq*.) provides for the planning and regulation of development within the coastal zone. A person planning to perform or undertake any development in the coastal zone is required to obtain a coastal development permit (CDP) from the Coastal Commission or local government enforcing a local coastal program certified by the Coastal Commission. (PRC §30600)

    b) The Coastal Commission is authorized to process and act upon a consolidated CDP application if a proposed project requires a CDP from both a local government with a certified local coastal program and the Coastal Commission and if the applicant, the local government, and the Coastal Commission consent to consolidate the permit action.

c) The Coastal Commission has the primary responsibility for the implementation of the provisions of the Coastal Act, and is designated as the state coastal zone planning and management agency, and may exercise the powers set forth in the Federal Coastal Zone Management Act of 1972 (Title 16, United States Code, §§1451 *et seq*.) that relates to the planning or management of the coastal zone, as provided. (PRC §30330)

3) Establishes the State Lands Commission (SLC).

a) The SLC is vested with jurisdiction over certain public and sovereign lands, including tidelands and submerged lands. (PRC §§6101 *et seq*.) The SLC administers these lands pursuant to statute and the public trust doctrine, a common law doctrine which, among other things, provides for the protection of maritime or water-dependent commerce.

b) The SLC is authorized to enter into leases for commercial, industrial, and recreational purposes, among other things. Each form of lease shall contain such terms and conditions as the SLC deems to be for the best interests of the state. (PRC §6501.2)

4) Requires a lead agency, as defined, under the California Environmental Quality Act (CEQA), to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposed to carry out or approve that may have a significant effect on the environment or to adopt a mitigated negative declaration, or negative declaration, as appropriate. (PRC §§21000 *et seq.*)

5) Requires the State Energy Resources Conservation and Development Commission (California Energy Commission (CEC)), in coordination with specified state entities and other relevant federal, state, and local agencies, to develop a strategic plan for offshore wind energy developed or installed off the California coast in federal waters, and requires the CEC to submit the strategic plan to the Natural Resources Agency and the Legislature on or before June 30, 2023. (PRC §§25991 *et seq*.)

6) Establishes the 100 Percent Clean Energy Act of 2018 as a policy of the state that eligible renewable energy resources and zero-carbon resources supply 100 percent of retail sales of electricity to California end-use customers 90 percent of all retail sales of electricity to California end-use customers by December

31, 2035, 95 percent of all retail sales of electricity to California end-use customers by December 31, 2040, 100 percent of all retail sales of electricity to California end-use customers by December 31, 2045, and 100 percent of electricity procured to serve all state agencies by December 31, 2035. Requires the California Public Utilities Commission (CPUC), CEC, and California Air Resources Board (CARB) to, as part of a public process, issue a joint report to the Legislature by January 1, 2021, and every four years thereafter that includes specified information relating to the implementation of the policy. (Public Utilities Code §454.53)

This bill establishes the California Offshore Wind Energy Fisheries Working Group (Working Group) to address offshore wind energy project impacts to certain fisheries and related interests, including the development of a statewide strategy to minimize impacts to ocean fisheries and providing for reasonable compensation to those affected, and requires the Coastal Commission to process a consolidated coastal development permit for new development associated with offshore wind energy projects and related transmission facilities, among other things. Specifically, this bill:

1) Requires the Coastal Commission to process a consolidated CDP for any new development that is associated with, appurtenant to, or necessary for the construction and operation of offshore wind energy projects and related transmission facilities, as provided. Requires the Coastal Commission to forward an application to local governmental agencies, to coordinate with affected local government agencies, and to engage with Native American tribes, as specified.

2) Requires the SLC to be the CEQA lead agency for offshore wind projects, as specified. Require the Coastal Commission and the SLC to coordinate with federal agencies for any projects requiring joint environmental documents, as provided.

3) Establishes the Working Group.

4) Requires that the Working Group membership includes the Coastal Commission, the Department of Fish and Wildlife, the SLC, the Ocean Protection Council, commercial and recreational fishing industry, offshore wind energy industry, California Native American tribes, relevant federal agencies, and other stakeholders, as provided.

5) Requires the Coastal Commission, on or before January 1, 2025, to convene the Working Group to develop a statewide strategy for ensuring that offshore wind energy projects avoid and minimize impacts to ocean fisheries to the maximum extent possible; avoid, minimize and mitigate impacts to fishing and fisheries; and reasonably compensate those engaged in commercial and recreational fishing and tribal interests for economic impacts to ocean fisheries resulting from offshore wind energy projects.

6) Requires the statewide strategy to include best practices for addressing impacts to commercial and recreational fisheries, tribal fisheries, and environmental resources associated with offshore wind energy projects, including:

   a) Protocols for communication;

   b) A methodology for comprehensive project-level socioeconomic analysis of direct and indirect impacts to fishing and tribal interests;

   c) Best practices for offshore surveys and data collection to assess impacts;

   d) Best practices for the avoidance and minimization of impacts, including evidence-informed adaptive management;

   e) A template for a fishing agreement;

   f) A template for an agreement addressing tribal fishing interests; and

   g) A framework for reasonable compensatory mitigation for unavoidable impacts to the commercial and recreational fishing industries and tribal fisheries, as provided.

7) Requires the framework for reasonable compensatory mitigation to include a payment structure to reasonably compensate certain affected parties for unavoidable impacts, including all of the following:

   a) Investments in resilient fleet improvements;

   b) Reasonable compensation for personal property losses, as provided;

   c) Reasonable compensation for lost revenue due to reduced fishing grounds;

d) Funding for robust monitoring and evaluation of offshore wind turbines;

e) A proportionate amount from each lessee sufficient to cover state costs, including the cost of the Working Group; and

f) Recognition of locally negotiated agreement between the fishing industry and offshore wind energy leaseholders.

8) Requires the Coastal Commission to review the statewide strategy, as needed, to determine if any changes are necessary, and authorizes the Coastal Commission at a public meeting to present the review, and reconvene the Working Group, as provided.

9) Requires the Working Group to complete the statewide strategy by January 1, 2026. Requires the Coastal Commission to review the statewide strategy for consistency with Coastal Act policies, and modify and adopt it on or before May 1, 2026.

10) Requires an applicant seeking approval or concurrence from a state entity for an offshore wind energy project to comply with the terms, recommendation, and best practices established in the statewide strategy. Requires the Coastal Commission to ensure the statewide strategy's terms, recommendations, and best practices are implemented.

11) Requires that representatives of the commercial and recreational fishing industries, and of California Native American tribes who participates in the Working Group be compensated up to $500 per day and receive reimbursement of travel expenses, as provided.

12) Requires the Coastal Commission to consult with labor organization representatives when reviewing a workforce development plan submitted pursuant to the Coastal Commission's existing federal consistency determinations, as specified.

13) Requires the SLC or a local trustee of granted public lands when issuing a lease for an offshore wind energy project to consider including reasonable compensatory mitigation for unavoidable impacts to fishing and tribal interests within the lease, as provided.

14) Requires the SLC to deposit revenue from an offshore wind energy project lease in the Offshore Wind Energy Resiliency Fund (Fund). Upon appropriation, monies in the Fund are available to fund the framework, as provided.

15) Makes various relevant legislative findings and declarations. States that the provisions of this act are severable, as provided.

Background

In December 2022, the federal agency with leasing authority – the Bureau of Ocean Energy Management (BOEM) – held a wind energy auction for five leases off the coast of California. This was the first federal offshore wind energy area lease in the Pacific. The leases sold for $757.1 million and covered 373,268 acres located approximately 20 miles offshore of central (San Luis Obispo County) and northern (Humboldt County) California. These lease areas have the potential to generate up to 4.6 GW of offshore wind energy.

The Coastal Commission reviewed BOEM's potential lease sales for Humboldt County (April 2022) and San Luis Obispo County (May 2022) and concurred in the federal consistency determination with California's Coastal Management Program (CCMP). The CCMP consists of enforceable policies of Chapter 3 of the Coastal Act (Public Resources Code (PRC) §§30200 *et seq*.). The Coastal Commission's concurrence covers lease and lease exploration activities.

The Coastal Commission found in its federal consistency determination for both leases that the proposed activities had the potential for adverse impacts to marine resources, commercial and recreational fishing, environmental justice communities, and tribal cultural resources, among other things.

Additional information and discussion of this bill can be found in the bill analyses prepared by the Senate Natural Resources and Water, and Senate Energy, Utilities, and Communication Committees.

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

According to the Assembly Appropriations Committee:

1) CCC estimates costs of approximately $631,000 for one limited-term senior environmental scientist to staff the Working Group through January 1, 2026. CCC additionally estimates ongoing annual costs of between $2.5 million and $3 million for 10 to 12 permanent positions to manage the entire OWE

regulatory process, including pre-planning, federal consistency determinations on the wind energy areas, stakeholder engagement with lessees, permitting, and post-construction monitoring, both for current and future leases (General fund, special fund, permit fees).

2) SLC estimates ongoing annual costs of approximately $446,000 (General Fund) for two positions to manage SLC's new CEQA workload.

3) DFW notes its costs are minor and absorbable (General Fund and Fish and Game Preservation Fund).

4) Ocean Protection Council and CEC note their costs are minor and absorbable.

5) Future cost pressure of an unknown but significant amount, possibly in the tens of millions to hundreds of millions of dollars, to provide reasonable compensatory mitigation to fisheries (Resiliency Fund). This bill requires OWE project lease revenues to cover these costs. It is not clear if the state will have access to or control over revenue generated from leases issued by BOEM, if revenue generated from leases issued by SLC will be sufficient to fully cover the costs of compensation as envisioned in this bill, or if state funds will be implicated in the future.

SUPPORT: (Verified 9/11/23)

350 Humboldt: Grassroots Climate Action
American Clean Power-California
Alliance of Communities for Sustainable Fisheries
Bodega Bay Fisherman’s Marketing Association
California Coastal Commission
California Coastal Protection Network
California Fishermen’s Resiliency Association
California Wetfish Producers Association
Coastal Environmental Rights Foundation
Commercial Fishermen of Santa Barbara
Fishermen’s Marketing Association
Humboldt Fishermen’s Marketing Association
Morro Bay Commercial Fishermen’s Organization
Offshore Wind California
Pacific Coast Federation of Fishermen’s Associations
Responsible Offshore Development Alliance
State Building and Construction Trades Council of California, AFL-CIO
Surfrider Foundation

OPPOSITION: (Verified 9/11/23)

Department of Finance

ARGUMENTS IN SUPPORT: According to the author, "Offshore wind is an essential tool in California's fight against climate change, but we cannot ignore the potential impacts its development may have on our coastal communities and fishermen. SB 286 will expedite the offshore wind permitting process while ensuring environmental safeguards remain. SB 286 will create a collaborative framework with offshore wind and fishing stakeholders to bring forward a California to ensure both groups thrive in the Golden State."

In a joint sign-on letter, the Pacific Coast Federation of Fishermen's Association, states that "This bill ensures California's commercial fishermen and women will have a seat at the table as the state pursues offshore wind to achieve its climate objectives."

ARGUMENTS IN OPPOSITION: The Department of Finance is opposed because this bill "results in significant ongoing General Fund costs." In addition, "This bill results in General Fund cost pressures to the extent that the revenues deposited in the Fund are insufficient to cover specified costs, including the implementation of the framework for compensatory mitigation. Finance notes uncertainty with the magnitude of compensatory mitigation for the purposes specified in this bill, but anticipates that compensation for lost commercial and tribal revenue or personal property losses resulting from offshore wind energy could be significant."

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
9/13/23 20:52:55

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

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

UNFINISHED BUSINESS

Bill No: SB 319
Author: McGuire (D)
Amended: 9/1/23
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 16-0, 4/24/23
AYES: Bradford, Ashby, Becker, Caballero, Dodd, Durazo, Eggman, Gonzalez, McGuire, Min, Newman, Rubio, Seyarto, Skinner, Stern, Wilk
NO VOTE RECORDED: Dahle, Grove

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Electricity: transmission planning and permitting

SOURCE: Author

DIGEST: This bill requires specified actions related to electric transmission planning, including: requires a review and update to a December 2022 memorandum of understanding and related workplan among California energy agencies and California Independent System Operator (CAISO), the development of an electrical transmission infrastructure guidebook; and a report to the Legislature regarding the status of transmission projects.

Assembly Amendments require the state energy agencies and CAISO develop an electrical transmission guidebook; delete the requirements that electrical

corporations annually review their long-term transmission infrastructure needs; delete and clarify the reporting requirements related to transmission projects and interconnections; and change the timing of when the California Public Utilities Commission (CPUC) must submit their report to the Legislature from annually to biennially.

ANALYSIS:

Existing law:

1) Establishes that U.S. Federal Energy Regulatory Commission (FERC) has exclusive jurisdiction over the transmission of electric energy in interstate commerce. (Federal Power Act §§§201, 205, 206 (16 USC 824, 824d, 824e))

2) Establishes the CPUC with jurisdiction over all public utilities, including electrical and gas corporations. (Article XII of the California Constitution)

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

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

5) Requires the CPUC, in consultation with the CEC on or before March 31, 2024, to provide transmission-focused guidance to the CAISO about resource portfolios of expected future renewable energy resources and zero-carbon resources, including the allocation of those resources by region based on technical feasibility and commercial interest in each region to allow the CAISO to identify and approve transmission facilities needed to interconnect resources and reliably serve the needs of load centers. (Public Utilities Code §454.57)

This bill:

1) Requires the CEC and CPUC, in coordination with the CAISO, every five years, to review the memorandum of understanding and a related workplan to

ensure the memorandum and workplan reflect the coordination that is needed to help meet the state's energy goals.

2) Requires the CEC, CPUC, and CAISO, on or before July 1, 2025, to jointly develop an electrical transmission infrastructure development guidebook that describes the state's electrical transmission infrastructure planning and permitting processes conducted by the CEC, CPUC, and CAISO.

   a) Requires the guidebook to include a description of the different stages of electrical transmission infrastructure development, an analysis of the average timeframes for electrical transmission planning and permitting, and the authority of federal agencies, and other requirements.

   b) Requires the agencies and CAISO to provide an opportunity for stakeholder input and public comment on the guidebook, including consultation with local, state, tribal, and federal agencies.

3) Requires the CPUC, in consultation with California balancing authorities, on or before December 1, 2024, and biennially thereafter, to submit a report to the Legislature that includes information related to electrical transmission projects, including:

   a) Description of project applications for certificates of public convenience and necessity from the preceding two years.

   b) The number of projects issued CPCNs.

   c) The number of projects that went into service and did not require CPCNs.

   d) Estimated transmission capital cost added to the rate base for each transmission projects that was approved by the CAISO or issued a CPCN.

Background

SB 100/SB 1020 clean energy goals. With the adoption of SB 100 (De León, Chapter 312, Statutes of 2018) and SB 1020 (Laird, Chapter 361, Statutes of 2022) statute establishes the policy of the state that eligible renewable energy resources and zero-carbon resources supply 90 percent of all retail sales of electricity to California end-use customers by December 31, 2035, 95 percent of all retail sales of electricity to California end-use customers by December 31, 2040, 100 percent of all retail sales of electricity to California end-use customers by December 31, 2045, and 100 percent of electricity procured to serve all state agencies by December 31, 2035.

In March 2021, the CEC, CPUC and the California Air Resources Board (CARB) released the joint agency SB 100 report, to determine how best to implement the 100% clean energy policy, and found that in order to meet the state's energy goals, California will need to roughly triple its current electricity power capacity. Most of California's electric transmission system was built four decades ago to deliver electricity from fossil, nuclear, and hydroelectric generation. As such, upgrades are needed to meet our zero-carbon and renewable energy future. Currently, many reforms are underway; either through better coordination amongst the energy entities to streamline planning, or through efforts to expedite permitting, including much focus on environmental review, or through reforms to the interconnection process to ensure new resources can be delivered.

CAISO transmission planning. The CAISO conducts its transmission planning process to identify potential system limitations, as well as, opportunities for system reinforcements that improve reliability and efficiency. The annual transmission plan fulfills the CAISO's core responsibility to identify and plan the development of solutions, transmission or otherwise, to meet the future needs of the electricity grid. In 2021, the CAISO created a 20-Year Transmission Outlook for the electric grid with the goal of exploring the longer-term grid requirements and options for meeting the state's SB 100 clean energy objectives reliably and cost-effectively. The 20-Year Transmission Outlook estimates a significant amount, and expense, to construct and expand transmission facilities, including an estimated $10.74 billion in upgrades to existing facilities.

CAISO Annual Transmission Planning Process (TPP) which evaluates the electricity system's needs based on energy resource portfolios developed by the CPUC, and in consultation with the CEC, identifies the necessary new transmission lines and upgrades to existing transmission lines required to assure reliability and to further public policy goals. The most recent 2023-24 TPP Portfolios were transmitted to CAISO planning for approximately 86 gigawatts of new resources by 2035.

Transmission Development Forum. The Transmission Development Forum is a more recent joint effort between the CAISO and the CPUC to discuss and track Participating Transmission Owners' expansion and network upgrade projects and schedules. The Transmission Development Forum creates a single forum to track the status of transmission network upgrade projects that affect generators and all other transmission projects approved in the CAISO's transmission planning process. The effort allows for increased transparency for all stakeholders about transmission projects and enhances accountability of transmission owners by

having them explain schedule changes, delays, and address stakeholders' questions.

Tracking Energy Development (TED) Task Force. The TED Taskforce is another more recent joint effort of the CPUC, CEC, CAISO, and Office of Business and Economic Development (GO-Biz) to track new energy projects under development. According to the CPUC, the objective is to build on the success of the *ad hoc* 2021 efforts to provide energy resource project development support, as appropriate, and identify barriers and mitigation strategies to accelerate energy project development.

December 2022 Memorandum of Understanding (*MOU)*. The CPUC, CEC, and CAISO entered an updated MOU, replacing the 2010 MOU, in order to better coordinate their respective and shared efforts for the timely development of resources needed to achieve the state's clean energy goals reliably and economically. The MOU focuses on linkages between forecasting, planning, procurement direction, and the interconnections process, among others, including those related to transmission.

Comments

This bill attempts to address the need for the expanded buildout of the electric transmission system serving the CAISO balancing authority area, including the capacity limitations on existing transmission in the northern coast of the state. By requiring more regular review and updates to the December 2022 MOU and related workplan, this bill is intended to ensure the MOU remains current to better reflect any changes to conditions. By requiring a guidebook on transmission development infrastructure planning and biennially reports on the status of transmission projects, this bill would help provide greater transparency as to the state's ability to advance transmission projects to meet the state's clean energy goals.

Related/Prior Legislation

SB 420 (Becker, 2023) allows, among its provisions, exempt construction of a new electrical transmission facility, as specified, from the requirement to obtain a discretionary permit from the CPUC, if the electrical transmission facility meets certain requirements.

SB 619 (Padilla, 2023) authorizes an electrical corporation that applies to the CPUC to authorize a construction of a high voltage electrical transmission line, rated at 138 kilovolts or greater, to apply to the CEC for certification of the facility pursuant to the California Environmental Quality Act (CEQA).

SB 664 (Stern, 2023), among its provisions, requires the CEC and CPUC to report on the status of electric infrastructure projects as part of the joint Reliability Planning Assessment.

SB 149 (Caballero, Chapter 60, Statutes of 2023), among its provisions, revised the procedures regarding CEQA administrative records and expedited administrative and judicial review procedures for ELDPs for specified projects, including transmission projects, that required the courts to resolve CEQA litigation within 270 days to the extent feasible and extended the ELDP sunset to January 1, 2034.

SB 529 (Hertzberg, Chapter 357, Statutes of 2022) exempted an extension, expansion, upgrade, or other modification of an existing transmission line or substations from the requirement of a CPCN and directs the CPUC to revise its general orders, by January 1, 2024, to instead use its permit to construct process for these approvals.

SB 887 (Becker, Chapter 358, Statutes of 2022) directed, among other provisions, the CPUC, on or before January 15, 2023, to request CAISO to identify the highest priority anticipated transmission facilities that are needed to deliver renewable energy resources or zero-carbon resources.

SB 1174 (Herzberg, Chapter 229, Statutes of 2022) required certain CPUC reports and assessments, including reporting relating to the California Renewables Portfolio Standard Program, to consider the role of transmission.

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

According to the Assembly Appropriations Committee:

1) The CPUC estimates it will need $918,000 annually for two regulatory analysts ($210,000 annually and $179,000 annually) and one utilities engineer ($209,000 annually) to, among other things, develop an expedited permitting roadmap and an annual report on transmission planning conducted pursuant to that roadmap, and to oversee utilities' annual review of their 10-year transmission plans, including ensuring that the 10-year plans include local governments' needs. The total also includes $250,000 annually for a contract with a third party to support tracking, road-mapping, outreach to local governments and other tasks, as well as $30,000 annually for staff training, $30,000 annually for staff travel and $10,000 annually for hardware and software costs. (Public Utilities Commission Utilities Reimbursement Account.)

2) The CEC anticipates needing one permanent program specialist at an annual cost of $229,000 to help develop an expedited permitting roadmap (Energy Resources Programs Account (ERPA)).

SUPPORT: (Verified 9/13/23)

Clean Air Task Force
County of Humboldt
Sonoma Clean Power
The Climate Center

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to the author:

> The Golden State is staring down some extraordinary deadlines to meet our climate goals, and electricity transmission – the backbone of our power system – is the key to clean, cost-effective, and reliable electricity delivery to all Californians.
>
> It's become abundantly clear that PG&E has some pretty significant constraints surrounding capacity and an antiquated transmission system. The state is also about to do two large offshore wind projects and the energy harnessed by those projects has to get into the grid, but our current transmission infrastructure doesn't support that. SB 319 will ensure the Golden State and our IOUs are coordinating to better meet our transmission needs in the future.

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
9/13/23 20:45:22

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

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

UNFINISHED BUSINESS

Bill No: SB 323
Author: Portantino (D), et al.
Amended: 9/7/23
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 3/29/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Comprehensive school safety plans: individualized safety plans

SOURCE: Author

DIGEST: This bill (1) requires that comprehensive school safety plans address accommodations related to relevant federal disability laws; (2) requires that the annual evaluation of those plans ensure appropriate adaptations; and (3) authorizes parents and others to bring a concern about a student's safety to the principal.

Assembly Amendments (1) eliminate the creation of an Inclusive School Emergency Plan, (2) require comprehensive school safety plan reviews to ensure appropriate adaptations for pupils with disabilities, (3) authorize parents and others to bring concerns about the comprehensive school safety plan to the school principal, and (4) address chaptering issues with other legislation

ANALYSIS:

Existing law:

1) Requires each school district or county office of education (COE) to be responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 through 12. The schoolsite council or a school safety planning committee is responsible for developing the comprehensive school safety plan. (Education Code (EC) § 32281)

2) Requires school safety plans to include:

   a) An assessment of the current status of school crime committed on school campuses and at school-related functions.

   b) Identification of appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, including, among other things:

      i) Disaster procedures, including adaptations for pupils with disabilities in accordance with the federal Americans with Disabilities Act (ADA) of 1990.

      ii) Earthquake emergency procedure system in every public school building having an occupant capacity of 50 or more pupils or more than one classroom.

      iii) A drop procedure whereby each pupil and staff member takes cover under a table or desk, dropping to their knees, with the head protected by the arms, and the back to the windows.

      iv) Protective measures to be taken before, during, and following an earthquake.

3) Requires school safety plans to be evaluated at least once a year, and requires an updated file of all safety-related plans and materials to be readily available for inspection by the public. (EC § 32282)

4) Requires each school to adopt its school safety plan by March 1 and review and update its plan annually by March 1. Each school is required to annually report, in July, on the status of its school safety plan, including a description of key

elements of the school safety plan in the annual school accountability report card. (EC § 32286)

5) Requires the schoolsite council or school safety planning committee to hold a public meeting before adopting the school safety plan. Each school is required to forward its school safety plan to the school district or county office for approval, and school districts or county offices are required to annually notify the California Department of Education (CDE), by October 15, of any school that is not in compliance. (EC § 32288)

6) Requires the Superintendent of Public Instruction (SPI), if they determine that there has been a willful failure to make any report, to notify the school district or county office and assess a fine of up to $2,000 against the district or county office. (EC § 32287)

7) Specifies that an individualized education program (IEP) is a written statement for each individual with exceptional needs that is developed, reviewed, and revised in accordance with state and federal law, and includes all of the following:

   a) A statement of the individual's present levels of academic achievement and functional performance.

   b) A statement of measurable annual goals, including academic and functional goals.

   c) A description of the manner in which the progress of the pupil toward meeting the annual goals will be measured.

   d) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided.

   e) An explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in the regular class.

   f) A statement of individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the pupil on state and districtwide assessments.

g) The projected date for the beginning of the services and modifications, and the anticipated frequency, location, and duration of those services and modifications.

h) Appropriate measureable postsecondary goals and transition services, beginning when the pupil is 16 years of age.

i) A description of the means by which the IEP will be provided under emergency conditions in which instruction or services, or both, cannot be provided to the pupil either at the school or in person for more than 10 schooldays. (EC § 56345)

This bill:

1) Requires that comprehensive school safety plans address accommodations related to relevant federal disability laws.

2) Requires that the annual evaluation of those plans ensure appropriate adaptations.

3) Authorizes parents and others to bring a concern about a student's safety to the principal.

Comments

1) *Need for the bill.* According to the author, "Regardless of a student's race, gender, nationality, ability or disability, everyone deserves equal protection and care when it comes to their education. Students with disabilities, however, face different needs when responding to an emergency. These needs must be addressed prior to an emergency. Not everyone can get under a desk, walk down the stairs to safety, or calmly respond to the stress that comes with an emergency or an emergency drill. Ensuring that each student is included in their school's safety procedures is a critical responsibility for schools. Ensuring consistent standards of care is the responsibility of the Legislature. SB 323 is a proactive measure that protects all students by creating a comprehensive school safety plan that includes accommodations as needed for students who have disabilities. Armed with a comprehensive safety plan, school staff can act with increased confidence and efficiency during an emergency, thereby improving odds for successful outcomes. SB 323 also protects schools by keeping them within Federal regulation."

2) *Student safety is part of a free and appropriate education.* Federal law mandates that every child receives a free and appropriate public education

(FAPE) in the least restrictive environment. Children who experience difficulties in school, due to physical or psychiatric disorders, emotional or behavioral problems, learning disorders, or disabilities are entitled to receive special services or accommodations through the public schools. To support their ability to learn in school and participate in the benefits of any district program or activity, including emergency preparedness and school safety plans, the following three federal laws apply to children with special needs:

a) *Americans with Disabilities Act*. The ADA provides "a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities…" and prohibits the exclusion of any qualified individual with a disability, by reason of such disability, from participation in or benefits of educational services, programs, or activities.

b) *Individuals with Disabilities Education Act (IDEA)*. The IDEA ensures services to children with special needs and defines 13 primary disability categories. These definitions guide how states define who is eligible for a FAPE under special education law.

c) *Section 504*. Under Section 504, any student who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment and is regarding as having such an impairment is considered disabled. Typically, children covered under Section 504 either have impairments that do not fit within the eligibility categories of IDEA or that may not be as apparent as those covered under IDEA.

3) *Comprehensive school safety plans.* As detailed above, existing law provides for the development of comprehensive school safety plans for each school operated by an LEA, including adaptations for pupils with disabilities. Private schools are not subject to the school safety plan requirements. Additionally, the safety plan requirements do not require public schools to conduct a drill related to the safety plan, including lockdown drills.

The school safety plan requirements are detailed. For example, a safety plan must include an assessment, identification of appropriate strategies and programs that will provide or maintain a high level of school safety, including procedures to notify teachers of dangerous pupils and procedures for the safe ingress and egress of pupils, parents, and school employees to and from the school. Moreover, school safety plans must be developed in cooperation with local law enforcement agencies and updated each year. Additionally, the school district or county office of education may elect not to disclose those portions of

the comprehensive school safety plan that include tactical responses to criminal incidents.

4) *The IEP process and emergency preparedness.* The IDEA establishes specific requirements for LEAs to identify students who may have disabilities affecting their education and to ensure that those students are provided with the services required to support them in accessing educational opportunities. Once determined eligible for special education, students with disabilities receive IEPs specifying the support their school districts will provide. At least once per year, each student's parents, teachers, and district administrators meet to develop their IEP, which includes specific goals and actions tailored to that student's abilities and needs.

   Students with special needs, even those who are self-sufficient under normal circumstances, may have to rely on others in an emergency. They may require additional assistance during and after an incident in functional areas, such as communication, transportation, supervision, medical care, and reestablishing independence. While not explicitly stated, a component of the IEP for related services should consider the particular needs of the child to ensure their safety during an emergency that includes evacuation from a classroom and building.

5) *The comprehensive school safety plan is required to accommodate students with disabilities, but special education providers are not required to help develop the plan.* As outlined above, existing law establishes detailed requirements for the development and contents of comprehensive school safety plans. Specifically, comprehensive school safety plans are required to include disaster procedures, routine and emergency, including adaptations for pupils with disabilities in accordance with the federal ADA.

   Each school district and COE is responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 to 12, inclusive. Schoolsite counsels—consisting of a principal and representatives from teachers, other school personnel, and parents—are required to write and develop the comprehensive school safety plan for each school. Alternatively, schoolsite counsels may delegate this responsibility to a school safety planning committee—consisting of a principal, a teacher, a parent, a classified employee, and other members, if desired.

6) *Exceptions to earthquake emergency procedures for individuals in wheelchairs or having other disabilities.* Existing law requires comprehensive school safety plans to include disaster procedures, including an earthquake emergency procedure system in every public school building having an occupant capacity

of 50 or more pupils or more than one classroom. The earthquake procedure must include, among other things, a drop procedure whereby each pupil and staff member takes cover under a table or desk, dropping to their knees, with the head protected by the arms, and the back to the windows.

According to Earthquake Country Alliance (ECA), a public-private organization that works to improve earthquake and tsunami preparedness, mitigation, and resiliency, individuals lacking mobility must adapt common earthquake safety procedures to their unique situations. The provisions in this bill establishing exceptions to existing drop procedures for individuals in wheelchairs or having other disabilities align with the recommendations from ECA.

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

According to the Assembly Appropriations Committee:

1) Minor and absorbable work to CDE to incorporate the new requirement in the school safety plan template.

2) One-time and ongoing Proposition 98 General Fund costs, of an unknown but potentially significant amount, to schools to meet the requirements of this bill. One-time costs to schools to include adaptations consistent with IDEA and Section 504 in their comprehensive school safety plans. Ongoing costs to annually evaluate this new requirement as part of existing annual evaluation processes and to address student, employee, or parent concerns about the requirement.

Costs would depend on the number of students with disabilities at a school and the number of individuals who voice concerns about a school's plan. Costs would be lower for schools whose school safety plans already include adaptions consistent with IDEA and Section 504. The state has over 10,000 schools and over 800,000 student with special needs.

SUPPORT: (Verified 9/13/23)

Autism Speaks
California Association for Behavior Analysis
California Association for Health, Physical Education, Recreation and Dance
Disability Rights California
East San Gabriel Valley SELPA Community Advisory Committee
Educate. Advocate.
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 9/13/23)

None received

Prepared by: Ian Johnson / ED. / (916) 651-4105
9/13/23 20:45:21

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

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

UNFINISHED BUSINESS

Bill No: SB 326
Author: Eggman (D), et al.
Amended: 9/8/23
Vote: 27 - Urgency

PRIOR SENATE VOTES NOT RELEVANT

SENATE HEALTH COMMITTEE: 12-0, 9/13/23 (Pursuant to Senate Rule 29.10)
AYES: Eggman, Nguyen, Glazer, Gonzalez, Grove, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener

ASSEMBLY FLOOR: 68-7, 9/12/23 - See last page for vote

SUBJECT: The Behavioral Health Services Act

SOURCE: Author

DIGEST: This bill revises and recasts the Mental Health Services Act (MHSA) as the Behavioral Health Services Act (BHSA) if voters approve amendments to the MHSA at the March 5, 2024 statewide primary election. This bill clarifies that county behavioral health programs are permitted to use BHSA funds to treat primary substance use disorder conditions and makes conforming changes throughout the BHSA. This bill restructures current MHSA funding buckets. This bill enhances the current process for local planning of various services funded by the BHSA, and for oversight, accountability, and reporting of BHSA funds.

Assembly Amendments delete the contents of this bill as passed by the Senate, and replace with the provisions contained in this bill.

ANALYSIS:

Existing law:

1) Establishes MHSA to provide funds to county mental health (MH) programs (CMHPs) to expand services, develop innovative programs, and integrate

service plans for mentally ill children, adults, and older adults through a 1% income tax on personal income above $1 million. Establishes the Mental Health Services Fund (MHSF) to fund the various programs. [WIC §5813.5 and §5890 and RTC §17043]

2) Distributes MHSF moneys generally as follows:

   a) 20% to CMHPs for PEI programs;

   b) 80% to CMHPs to fund the adult/older adult and the children's systems of care. [WIC §5892]

3) Requires each CMHP to prepare and submit a three-year plan, and annual updates, to the Department of Health Care Services (DHCS) and the Mental Health Services Oversight and Accountability Commission (MHSOAC) after review from a local mental health board and approval from the board of supervisors, and input from local stakeholders, as specified. [WIC §5847 and §5848]

4) Requires a county to calculate an amount it establishes as the prudent reserve for its Local MH Services Fund, not to exceed 33%, as specified. [WIC §5892]

5) Requires the MHSOAC to consist of 16 voting members as follows:

   a) The Attorney General or his or her designee;

   b) The Superintendent of Public Instruction or his or her designee;

   c) The Chair of the Senate Health and Human Services Committee or another member of the Senate selected by the President pro Tempore of the Senate;

   d) The Chair of the Assembly Health Committee or another member of the Assembly selected by the Speaker of the Assembly; and,

   e) Twelve members appointed by the Governor that include:

      i) Two people with a severe mental illness;
      ii) A family member of an adult or senior with a severe mental illness;
      iii) A family member of a child who has or has had a severe mental illness;
      iv) A physician specializing in alcohol and drug treatment;
      v) A mental health professional;
      vi) A county sheriff;
      vii) A superintendent of a school district;
      viii) A representative of a labor organization;

ix) A representative of an employer with less than 500 employees;
x) A representative of an employer with more than 500 employees; and,
xi) A representative of a health care services plan or insurer. [WIC §5845]

6) Prohibits MHSA funds from being used to supplant existing state or county funds utilized to provide MH services. [WIC §5891]

7) Specifies that community MH services should be organized to provide an array of treatment options in the following areas, to the extent resources are available: precrisis and crisis services; comprehensive evaluation and assessment; individual service plans; medication education and management; case management; 24-hour treatment services; rehabilitation and support services; vocational rehabilitation; residential services; services for the homeless; and group services. [WIC §5600.4]

8) Requires each community MH service to have a MH board (MHB) consisting of ten to 15 members, appointed by the governing board, with added requirements for counties depending on the size of its population and the size of its board of supervisors. Specifies MHB membership. [WIC §5604]

This bill:

General Provisions

1) Revises and recasts the MHSA as the BHSA, if voters approve amendments to the MHSA at the March 5, 2024 statewide primary election. Clarifies that counties are permitted to use BHSA funds to treat primary SUD conditions, and makes conforming changes throughout the BHSA.

2) Renames the MHSF as the BHSF and makes conforming changes. Prohibits the state from making any change to the structure of financing MH services that increases a county BH program's (CBHP) share of costs or financial risk for MH services. Requires BHSF funds to be utilized by CBHPs to expand MH and SUD treatment services.

Changes to Funding Buckets

3) Distributes BHSF moneys generally as follows:

   a) 30% of funds to CBHPs for housing interventions programs, with 50% of these funds used for housing interventions for persons who are chronically homeless, with a focus on those in encampments, and up to 25% for capital development projects, as specified. Permits CBHPs with a population less

than 200,000, beginning in fiscal year 2026, to seek an exemption from this requirement, as specified. Permits other counties, beginning 2032, to seek an exemption from this requirement;

b) 35% of funds to CBHPs for FSPs. Permits CBHPs, beginning in fiscal year 2032, to seek an exemption from this requirement, as specified;

c) 35% of funds to CBHPs for BH Services and Supports (BHSS) for services to children and youth and adults/older adults, early intervention, outreach and engagement, workforce education and training, capital facilities and technological needs, and innovative BH pilots and projects. Requires at least 51% of BHSS funds to be used for early intervention, and 51% of those funds for programs to serve individuals who are 25 years and younger;

d) Prudent reserve to ensure CBHP programs are able to continue to meet the needs of the populations served with BHSF funds. Requires counties to calculate a maximum amount from its Local BH Services Fund not to exceed 20% for the prudent reserve. Requires counties with a population of less than 200,000 to calculate to calculate a maximum amount not to exceed 25%;

e) At least 3% of total funds for the Department of Health Care Access and Information (HCAI) to implement a statewide BH workforce initiative; and,

f) At least 4% to the California Department of Public Health (CDPH) for population-based MH and SUD prevention programs, with at least 51% of these funds to be used for programs serving populations who are 25 years or younger, with specified priorities such as reduction of stigma and racial disparities.

4) Permits a CBHP to transfer up to 14% of the total BHSF funds between one or more of the purposes authorized in the BHSA upon approval from DHCS, as specified.

CBHP Three-Year Integrated Plans And Reporting

5) Requires each CBHP to prepare and submit an integrated plan and annual updates to the BHSOAC and DHCS, to replace the existing three-year plans under the MHSA. Requires each CBHP to follow the same process as outlined in 4) above of existing law, including requiring approval of the board of supervisors and seeking stakeholder input in developing the integrated plan. Requires a CBHP with a population greater than 200,000 to collaborate with

the five most populous cities in the county, managed care plans, and continuums of care to outline respective responsibilities and coordination of services related to housing interventions.

6) Requires each CBHP to submit its integrated plan and annual updates to DHCS and the BHSOAC. Requires the integrated plan and annual updates to include more information than the current three-year plan, including all of a CBHP's community MH services; a description of how underserved populations will be prioritized; and, a description of its workforce strategy.

7) Requires CBHPs and Medi-Cal BH delivery systems annually to submit a County Behavioral Health Outcomes, Accountability, and Transparency Report to DHCS with an accounting of all funds used to for BH services, like realignment and Medi-Cal funds, not just BHSF funds.

BHSOAC

8) Renames the MHSOAC as the BHSOAC and expands its membership to 27 to include additional Governor appointees as follows:

   a) Two Persons who have or have had a SUD;

   b) A person who is 25 years or younger and has or has had a MH disorder, SUD, or co-occurring disorder;

   c) A family member of an adult or older adult who has or has had a SUD;

   d) A current or former behavioral health director;

   e) A family member of a child or youth who has or has had a SUD;

   f) A professional with expertise in housing and homelessness;

   g) A representative of an aging or disability organization;

   h) A person with knowledge and experience in community-defined evidence practices and reducing BH disparities;

   i) A representative of a children and youth organization; and,

   j) A veteran or a representative of a veteran organization.

Creation of Housing Interventions, Early Intervention Programs, and FSPs

9) Requires each CBHP to establish and administer a program for housing interventions that can include such things as rental subsidies, operating subsidies, shared housing, family housing for eligible children and youth who meet the specified criteria, and, other housing supports, as defined by DHCS.

10) Requires each CBHP to establish and administer an early intervention program (EIP) to emphasize the reduction of the likelihood of specified consequences emphasized under the PEI program under the MHSA, such as suicide and self-harm; incarcerations; school (including early childhood up to five years, TK-12, and higher education) suspension, expulsion, referral to an alternative or community school, or failure to complete; homelessness; overdose; and, mental illness in children and youth from social, emotional, developmental, and behavioral needs in early childhood. Requires DHCS, in consultation with the BHSOAC, to establish priorities for the use of EIP funds, as specified.

11) Codifies the requirement for CBHPs to establish and administer an FSP program, for eligible adults/older adults and children and youth, as a whole-person approach that is trauma informed, age appropriate, and in partnership with families or an individual's natural supports.

California State Auditor Reports

12) Requires the California State Auditor (CSA), no later than December 31, 2029, to issue a comprehensive report on the progress and effectiveness of the implementation of the BHSA, with recommendations. Requires the CSA to conduct the audit every three years thereafter with the final audit due on or before December 31, 2035.

Miscellaneous Provisions

13) Establishes a BHSA Revenue Stability Workgroup to assess year-over-year fluctuations in tax revenues generated by the BHSA in recognition of the need for a reliable strategy for short- and long-term fiscal stability, commencing no later than June 30, 2024.

14) Establishes the BHSA Innovation Partnership Fund in the State Treasury, administered by the BHSOAC, to award grants to promote development of innovative MH and SUD programs and practices, and improving BHSA programs and practices for underserved populations, low-income populations, communities impacted by other BH disparities, and other populations, as determined by the BHSOAC.

15) Repeals provisions throughout the MHSA related to Innovative and PEI programs as separate funding categories.

16) Renames MHBs as BH boards (BHB) and makes conforming changes.

17) Requires CBHPs, in order to maximize federal financial participation, to submit claims to DHCS in accordance with applicable Medi-Cal rules and procedures, as specified. Requires a CBHP to make a good faith effort to enter into contracts, single case agreements, or other agreements to obtain reimbursement with health care service plans and disability insurance plans, as specified.

18) Permits DHCS to develop and revise documentation standards to be consistent with standards developed under the California Advancing and Innovating Medi-Cal Act clinical auditing standards for various programs related to the BHSA.

Comments

1) *Author's statement.* According to the author, in nearly 20 years since its original passage by the voters, the MHSA has been a lifeline to individuals, families, and critical programs throughout California, and has allowed for significant build out of community-based services, providing early intervention and an emphasis on doing "whatever it takes." Like any policy, it's time to review where the MHSA has succeeded and where it can be improved, given so much has changed in our health care system, our understanding of BH and SUDs, and evolving needs in our communities. This bill asks voters to approve significant updates to the MHSA, including how funds are used, prioritization of certain at-risk populations, and enhanced outcome measures and accountability, and will be paired with a bond proposal to create additional community-based based BH treatment facilities. It's time for us to build on the successes of the past, with all we've learned since its original passage and the new landscape in BH care in California, to create a BHSA that meets the needs of 2023 and beyond.

2) *MHSA.* Approved by voters in 2004, the MHSA places a 1% tax on personal income over $1 million and dedicates the associated revenues to mental health services. According to the MHSOAC, the MHSA was informed and inspired by the emergence of effective practices for dealing with serious mental health conditions and legislatively sponsored pilot projects in comprehensive services that improved outcomes, including reductions in homelessness, criminal justice involvement, and hospitalizations for individuals with serious mental health

conditions. Proposition 63, the voter initiative which enacted the MHSA, also incorporated recommendations from two Little Hoover Commission reports that were developed through two years of public hearings, advisory committee meetings, consultations, and site visits. The unanimous recommendations by the bipartisan Little Hoover Commission called for an end to rationed services and for transforming the mental health system by providing tailored and comprehensive care, and investing in prevention, early intervention, and innovation as essential to reducing human suffering. The vast majority of MHSA revenues—at least 95%—goes directly to counties, which use it to support a variety of services for individuals with or at risk of mental illness. Currently, the MHSA establishes broad categories for how counties can spend the funding: CSS, which funds direct service provision with the bulk of the funds used for FSPs; PEI, which funds services that prevent mental illness before it becomes severe; and Innovation, which encourages counties to experiment with new approaches to addressing mental illness. Counties are also permitted to use MHSA funds for Capital Facilities and Technological Needs, which creates additional county infrastructure, such as additional clinics and facilities and/or development of a technological infrastructure for the mental health system, such as electronic health records for mental health services, as well as Workforce Education and Training, which provides training for existing county mental health employees, outreach and recruitment to increase employment in the mental health system, and financial incentives to recruit or retain employees within the public mental health system.

The MHSA requires each CMHP to prepare and submit a three-year plan to DHCS, after review from a local mental health board and approval from the board of supervisors. The plan must be updated each year and approved by DHCS after review and comment by the MHSOAC. DHCS is required to provide guidelines to counties related to each component of the MHSA. In the three-year plans, CMHPs are required to include a list of all programs for which MHSA funding is being requested, with local stakeholder input, and that identifies how the funds will be spent and which populations will be served. The MHSA makes explicit reference to those with co-occurring conditions and permits use of funds to treat those with a co-occurring SUD, as long as an individual has a primary mental health condition. CMHPs also must submit their plans for approval to the MHSOAC before they can spend innovation program funds. Counties generally have three years to spend funds (smaller counties have five years) before DHCS can revert funds back to the Mental Health Services Fund for redistribution to other counties.

3) *Support in concept/support if amended.* Housing California, the Corporation for Supportive Housing, and the National Alliance to End Homelessness recommend explicitly ensuring that CMHPs fund services for individuals accessing housing interventions; recommend prioritizing services programs, like FSPs, to housing projects the CMHP and other local agencies fund; avoiding a ceiling for housing spending; expanding eligibility for housing interventions to people with BH conditions who may not have a diagnosed serious mental illness or the most serious mental illness; and, expanding the list of eligible uses to reflect some of these uses: housing navigation, landlord incentives, move-in costs, costs associated with master leasing, problem solving and diversion interventions that result in an individual retaining or moving into permanent housing, and housing retention services. The Children's Institute supports if amended to maintain services for children and families.

4) *Oppose unless amended.* The California Pan-Ethnic Health Network states that people of color continue to have the highest rates of unmet MH needs in California and are uniquely impacted by the consequences of a MH system that has failed to develop and incorporate treatment approaches that recognize diversity. People of color are also most likely to experience trauma from mass incarceration, racialized poverty, and systemic discrimination, any and all of which exacerbate MH needs. CPEHN further states that recent amendments make it optional for counties to provide housing interventions to people living with SUDs, making grave problems worse and undermining the goal of providing housing support services for people with BH conditions. Counties should not be able to deny housing supports and interventions to individuals simply because they are living with a SUD, and this unjust exclusion threatens the progress made in viewing SUDs as health conditions. CPEHN is disappointed to see the continued exclusion of any requirement that CBHPs utilize housing intervention dollars with a racial equity analysis, argues that this bill fails to address inequities across the BH delivery system, limiting its focus to modernizing the MHSA while ignoring the need for comprehensive reforms and the need to leverage funding throughout the BH system. Families Advocating for the Seriously Mentally Ill states that this bill does not preserve the language in the MHSA that allows money to be used for secure acute and sub-acute treatment facilities when appropriate, arguing that hospitals provide an essential level of care for loved ones with serious mental illnesses, and does not create a right to treatment, which was contained in a bill from the previous Legislative Session. The Youth Law Center (YLC) would like to see this bill amended to include set asides for children and youth, including transition-age youth (between the ages of 16 and 25), in *each* funding category along with

broader language that supports the state's efforts to expand access to services through other initiatives. YLC believes these set asides are important components of the state's efforts toward comprehensive MH reform in California. A coalition of racial equity advocates oppose unless the bill is amended to allocate at least 5% of total funds for CDPH's population-based prevention efforts, rather than the 4% specified in this bill.

5) *Concerns.* CSAC, Rural County Representatives of California, CBHDA, County Welfare Directors Association, County Health Executives Association of California, and the Chief Probation Officers of California (counties) appreciate the latest amendments that strengthen the this bill, including added flexibility that counties may use to fund reserves and the added collaboration with county organizations on important provisions of the proposal. Counties, however, have several remaining concerns, including the bill still results in significantly less funding for core services. Counties have a significant and growing obligation to fund BH services under the Medi-Cal entitlement and use MHSA funds to support that obligation. This proposal leaves counties with fewer resources to do so, including less funding available to use as Medi-Cal match to draw down additional federal dollars. Counties also state that the housing interventions definition remains too restrictive and will make it more difficult for counties to flexibly tailor programs and fund both subsidies and the robust housing support services some individuals require to be successful in accessing and maintaining housing stability as envisioned by this bill. Counties further argue that reserves remain inadequate, volatility remains unaddressed in the near-term under the revised proposal, and new prescriptive state requirements direct how counties must spend BHSA funds and restrict a county's ability to design programs best suited to serving local communities. The California Behavioral Health Planning Council states that there should be no loss in services provided to Californians as a result of changes to the MHSA and recommends the Legislature reduce the required percentage for housing interventions to a range of 15% to 20%; allow CBHPs to determine funding levels within the required range; and allow counties with verifiable low percentages of chronically homeless individuals more flexibility with their use of housing funds now versus waiting until 2032-35 to allow exemptions for counties over 200,000. Santa Clara County remains concerned and requests this bill be amended to establish minimum percentages as follows: 10% for housing, 20% for FSPs, and 18% for PEI. Once such targets are obtained, CBHPs should be authorized to flexibly allocate remaining MHSA dollars for BH and housing-related services. Nevada County shares concerns expressed by Santa Clara County recommends utilizing rolling averages of revenues and to consider minimum amounts for each bucket, allowing counties to then flex

total funds spent per bucket based on local needs and as conditions change over time. Sycamores and Safe Place for Youth also believe CBHPs should only have to devote a minimum percentage for housing interventions. Nevada County would also like to see rural counties receive an automatic exemption from critical areas of this bill without need for express permission from the state in order to prevent unnecessary burdensome administration. While the California Council of Community Behavioral Health Agencies (CBHA) is neutral on this bill, they express concerns that relying on managed care plans (MCPs) to ease the burden on an overwhelmed system is not a realistic solution, and their providers currently offer a higher and more comprehensive level of service than MCPs. CBHA is also concerned that some of the requirements regarding Assertive Community Treatment and Forensic Assertive Community Treatment to fidelity and the inclusion of field-based medication-assisted treatment in FSPs will fundamentally alter the model. Mental Health America of Los Angeles believes the proposal in its current form falls short in critical ways that could have the unintended impact of leaving just as many people homeless and living on the streets as before the reform, cutting critical services. The California Coalition for Mental Health states that reducing outpatient services, crisis response, prevention services, and outreach impacts historically unserved and underserved populations and all Californians, and the proposed BHSA percentage buckets that hinge on increased federal matching could result in reduced providers and reduced MH services.

[NOTE: For more information, see the Senate Health Committee analysis dated September 13, 2023]

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

According to the Assembly Appropriations Committee:

1) DHCS notes the enacted FY 2023-24 budget includes an approved budget change proposal for $40 million ($20 million (MHSF); $20 million federal funds) to support DHCS's responsibilities under this bill.

2) According to CBHDA, counties leverage half of MHSA funding to draw down federal funds through the Medi-Cal program. CBHDA contends this bill diverts funding to support non-Medi-Cal billable services such as housing, and will result in funding for core outpatient, crisis, recovery-oriented services and outreach and engagement services being cut by more than 50%. A majority of the services that would be cut are core mental health services that can be matched with federal funds under Medi-Cal; therefore, CBHDA contends

revenue losses would be doubled, to approximately $1 billion (MHSF, federal funds). CBHDA further notes the state proposes to divert approximately $108 million from local MHSA funds to the state for state-directed workforce initiatives (MHSF).

3) MHSOAC estimates ongoing costs of approximately $5.4 million beginning FY 2024-25 with additional significant costs of an unknown amount for staff, contracting with outside experts to complete analyses, consulting fees, and other activities (MHSF).

4) The Secretary of State estimates this bill will require an estimated 54 additional pages to the March 2024 Presidential Primary Election Voter Information Guide (VIG). Based on an average cost of $123,359 per page, the total cost to add this bill to the VIG will be $6.7 million (General Fund).

5) DMHC estimates the total costs of this bill to be between $181,000 and $190,000 in FY 2023-24 and annually thereafter (Managed Care Fund).

6) CDI estimates costs of $607,000 in FY 2026-27 and $557,000 in FY 2027-28 and ongoing (Insurance Fund).

7) Costs of an unknown, but significant amount to CDPH.

8) The Franchise Tax Board estimates costs of approximately $310,000 for FY 2024-25 (General Fund).

9) CSA anticipates that, given the amount of time before the first report is due and the length of time between reports, costs will be absorbable within existing resources.

10) No costs to the Department of Housing and Community Development.

SUPPORT: (Verified 9/12/23)

Lieutenant Governor Eleni Kounalakis
AARP
Alzheimer's San Diego
Big City Mayors Coalition
California Business Roundtable
California Chamber of Commerce
California Children's Trust
California Conference of Carpenters
California Downtown Association

California Hospital Association
California Housing Consortium
California Housing Partnership
California Professional Firefighters
California Retailers Association
Cedars Sinai
Chicano Federation of San Diego County
Children's Partnership
City and County of San Francisco Board of Supervisors
City of Alameda
City of Bakersfield
City of Carlsbad
City of Chico
City of Compton
City of El Cajon
City of El Monte
City of Fountain Valley
City of Fullerton
City of Hayward
City of Lindsay
City of Monterey
City of Moreno Valley
City of Moorpark
City of Newark
City of Paramount
City of Parlier
City of Perris
City of Riverside
City of Salinas
City of San Diego
City of San Jose
City of San Fernando
City of San Leandro
City of San Rafael
City of Santa Barbara
City of Stockton
City of Tracy
City of West Hollywood
Clinica Sierra Vista
Comite Civico del Valle, Inc.

Councilmember Raul Campillo, City of San Diego
Eden Housing
El Camino Homeless Organization
Father Joe's Villages
First 5 Association of California
Greater Riverside Chambers of Commerce
Greater Sacramento Urban League
Hope the Mission
Illumination Foundation
Inland Empire Coalition of Mayors
Jewish Foundation Service of San Diego
Kings Tulare Homeless Alliance
Koreatown Youth and Community Center
League of California Cities
Mayor Daniel T. Parra, City of Fowler
Mayor Darrell Steinberg, City of Sacramento
Mayor Deborah Penrose, City of Half Moon Bay
Mayor Jerry Dyer, City of Fresno
Mayor Julian A. Gold, City of Beverly Hills
Mayor London N. Breed, City and County of San Francisco
Mayor Mark Arapostathis, City of La Mesa
Mayor Melissa Blaustein, City of Sausalito
Mayor Michael Hannon, City of Newark
Mayor Sheng Thao, City of Oakland
Mayor Tyller Williamson, City of Monterey
Mental Health Services Oversight and Accountability Commission
National Alliance on Mental Illness California
Pallet
Parkview Legacy Foundation
Poverello House in Fresno
Salt + Light Works
Salvation Army in San Diego
San Diego Housing Commission
San Diego Oasis
San Francisco Chamber of Commerce
San Gabriel Valley Economic Partnership
San Jose Chamber of Commerce
Scripps Health
Service Employees International Union California
Silicon Valley Leadership Group

South Asian Network
Southern California Rental Housing Association
Steinberg Institute
Sutter Health
The Umbrella Effect: Project Becky
Valley Industry and Commerce Association
Wellhead Electric Company, Inc.
WISEPlace

OPPOSITION: (Verified 9/12/23)

API Equality LA
Asian American Recovery Services
Asian Americans Advancing Justice Southern California
Cal Voices
California Association of Mental Health Peer Run Organizations
California Black Women's Health Network
California Pan-Ethnic Health Network
Catholic Charities of the East Bay
Depression and Bipolar Support Alliance
Disability Rights California
Faith and Community Empowerment
Families Advocating for the Seriously Mentally Ill
Hmong Cultural Center of Butte County
Humanidad Therapy and Education Services
Indian Health Council, Inc.
LGBTQ TA Center for Applied Research Solutions
Mental Health America of California
Moreno & Associates
National Asian Pacific American Families Against Substance Abuse
Openhouse
Peers Envisioning and Engaging in Recovery Services
Racial & Ethnic Mental Health Disparities Coalition
Richmond Area Multi-Services, Inc.
Sacramento County Mental Health Services Act Steering Committee
Safe Passages
Special Services for Groups, Inc.
The Cambodian Family
The Village Project, Inc.
Underwood Strategic Insight
Western Fresno Family Resource Center

Whole Systems Learning
Youth Law Center
Three individuals

ARGUMENTS IN SUPPORT: The Big City Mayors Coalition, representing the state's 13 largest cities, including Los Angeles, San Diego, San Jose, San Francisco, and Sacramento, state this bill will modernize the MHSA by providing ongoing funding for BH housing, expanding funding to cover drug treatment services, and prioritizing services for our most vulnerable unhoused Californians. Mayors of California's largest cities are on the frontlines of addressing California's homelessness crisis and are focused on reforms that ensure necessary housing and services are developed to address the needs of unhoused individuals with severe mental illness and SUD. This bill will transform the way BH services are delivered in California. Various other cities write that it is time to review where the MHSA has succeeded and whether it can be improved given so much has changed in our health care system, our understanding of BH and SUD, and evolving needs in our communities. Other supporters state that given the historic opportunity this effort represents to ensure our entire continuum of care is responsive to the needs of historically marginalized children, youth, and families, they are grateful that recent amendments preserve essential set-asides for children and youth services and continue to advance the state's ongoing efforts to build a comprehensive, whole-child ecosystem for child and youth MH. California faces a confluence of crises—homelessness, serious mental illness, and SUDs—and this moment demands bold and comprehensive action. Among Californians experiencing homelessness, nearly 40,000 have a serious mental illness and over 36,000 have a chronic SUD. A recent RAND study reveals a shortage of at least 6,000 BH beds in the state. This critical shortage leads not only to unnecessary lengthy stays in locked settings and hospitals but also compounds the growing crisis. The need for MH and SUD treatment services is even more acute among our state's veterans. First 5 Association of California appreciates the Administration and Legislature for amending the bill to specifically highlight the importance of addressing the MH needs of California's youngest children.

ARGUMENTS IN OPPOSITION: Cal Voices argues that this bill contains language that vaguely defines programs such as FSPs, Assertive Community Treatment, timeliness of care standards, and housing interventions, giving sweeping legislative interpretation to DHCS. Cal Voices also states that this bill prioritizes involuntary clinical interventions over voluntary, recovery-based, client-driven services, and it permits CBHPs to create annual and intermittent updates to their integrated plans without any involvement of BH stakeholders, bypassing the local planning process altogether. Cal Voices further argues that the reduction in

the current CSS category to the new BHSS funding percentage will affect services and affect CBHPs' ability to use peer support specialists, who are currently funded through the MHSA. Mental Health America of California (MHAC) states that an initiative of this magnitude should not be rushed through the legislative process without significant stakeholder involvement and detailed analyses, arguing that the MHSA was drafted over several years, and included meaningful and substantial input from a broad variety of stakeholders, to ensure that it would meet the needs of Californians with MH challenges who receive services in the public MH care system. MHAC further states that changes to the MHSA should be designed after the current statewide mental health reforms have taken effect, such as the California Advancing and Innovating Medi-Cal, the Children and Youth Behavioral Health Initiative, the Behavioral Health Community-Based Organized Networks of Equitable Care and Treatment, Medi-Cal Mobile Crisis and 988 expansion, and the Behavioral Health Continuum Infrastructure Program. MHAC also argues that California's high number of unhoused people is the direct result of a severe lack of affordable housing, and we must address this issue prior to amending the MHSA. Disability Rights California, the California Association of Mental Health Peer Run Organizations, and Peers Envisioning and Engaging in Recovery Services echoes many of the arguments made by Cal Voices. The Depression and Bipolar Support Alliance shares concerns about this proposal not being fully vetted by those who will be most impacted by its implementation and is very concerned about the inclusion of the SUD population without any increase in funding.

ASSEMBLY FLOOR: 68-7, 9/12/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Flora, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Megan Dahle, Essayli, Vince Fong, Gallagher, Mathis, Joe Patterson, Sanchez
NO VOTE RECORDED: Davies, Dixon, Jim Patterson, Schiavo, Ta

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
9/13/23 18:28:20

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

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

UNFINISHED BUSINESS

Bill No: SB 331
Author: Rubio (D), et al.
Amended: 9/8/23
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 4/25/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello, Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/18/23
AYES: Portantino, Ashby, Bradford, Seyarto, Wahab, Wiener
NO VOTE RECORDED: Jones

SENATE FLOOR: 38-0, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Laird, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Jones, Limón

ASSEMBLY FLOOR: Not available

SUBJECT: Child custody: child abuse and safety

SOURCE: California Protective Parents Association
Crime Survivors Resource Center
Family Court Awareness Month

DIGEST: This bill prohibits a court from ordering certain methods of outpatient counseling in child custody and visitation proceedings and modifies training and reporting requirements for judicial personnel on issues of domestic violence and child abuse.

Assembly Amendments rename the bill and modify the findings and declarations; delete the provision relating to the admissibility of expert testimony in family law matters; delete the earlier provisions modifying when a family court may order counseling and add a provision preventing a court from ordering family reunification treatments that require, or result in, specific circumstances; and add a requirement that the Judicial Council report to the Legislature on January 1, 2025, and annually thereafter, the titles of training courses offered by Judicial Council and the number of judicial officers that participated in each training for judicial officers who perform duties in domestic violence and child custody matters.

ANALYSIS:

Existing law:

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

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

3) Provides that when determining the best interests of a child, a court may consider any relevant factors and must consider: the health, safety, and welfare of the child; any history of abuse by any party seeking custody, any family members of any party seeking custody, or the intimate partner or cohabitant of any party seeking custody; the nature and amount of contact with the parents; and substance abuse by a parent. The court may not consider the sex, gender identity, gender expression, or sexual orientation of a parent, legal guardian, or relative in determining the best interests of the child. (Fam. Code, § 3011.)

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

5) Permits a court to require parents or any other party involved in a custody or visitation dispute, and the minor child, to participate in outpatient counseling with licensed mental health professional, or through other community programs and services that provide appropriate counseling, including, but not

limited to, mental health or substance abuse services, for not more than one year, provided that the program selected has counseling available for the designated period of time, if the court finds the following:

a) The dispute between the parents, between the parent or parents and the child, between the parent or parents and another party seeking custody or visitation rights with the child, or between a party seeking custody or visitation rights and the child, poses a substantial danger to the best interest of the child; and

b) The counseling is in the best interest of the child. (Fam. Code, § 3190(a).)

6) Provides that a court, in determining whether a dispute under 5) a) poses a substantial danger to the best interest of the child, shall consider, in addition to any other factors the court determines relevant, any history of domestic violence within the past five years between the parents, between the parent or parents and the child, between the parent or parents and another party seeking custody or visitation rights with the child, or between a party seeking custody or visitation rights and the child. (Fam. Code, § 3190(b).)

7) Provides that, if a court finds that the financial burden created by an order for counseling under 5) does not otherwise jeopardize a party's financial obligations, the court shall fix the cost and order the entire cost of the services to be borne by the parties in the proportions that the court deems reasonable. (Fam. Code, § 3190(c).)

8) Requires a court, when ordering counseling pursuant to 5), to set forth in its order its reasons for finding that the dispute poses a substantial danger to the best interest of the child and the counseling is in the best interest of the child and that the financial burden created by the court order for counseling does not otherwise jeopardize a party's other financial obligations. (Fam. Code, § 3190(d).)

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

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

b) The training in 7) a) must include instruction in all aspects of family law, including effects of gender, gender identity, and sexual orientation on

family law proceedings, the economic effects of dissolution on the involved parties, and the effects of allegations of child abuse or neglect made during family law proceedings. (Gov. Code, § 68553; Cal. Rules of Court, Rule 10.463.)

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

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

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

11) Provides that a person is qualified to testify as an expert witness if they have special knowledge, skill, experience, training, or education sufficient to qualify them as an expert on the subject to which their testimony relates.

    a) Against the objection of a party, such special knowledge, skill, experience, training, or education must be shown before the witness may testify as an expert.

    b) A witnesses' special knowledge, skill, experience, training, or education may be shown by otherwise-admissible evidence, including their own testimony. (Evid. Code, § 720.)

12) Permits a witness testifying as an expert to provide opinion testimony, provided that the testimony relates to a subject that is sufficiently beyond common experience that the opinion of an expert would assist the trier of fact and is based on matter that reasonably may be relied on by an expert in forming an opinion on the subject to which the testimony relates, as specified, unless otherwise precluded by law. (Evid. Code, § 801.)

This bill:

1) Establishes Piqui’s Law: Keeping Children Safe from Family Violence Act.

2) Makes findings and declarations regarding the prevalence of domestic violence and child abuse perpetrated by parents, the risk of exposing a child to an abuser, and the intent of the legislature to provide additional protections to children who are at risk of abuse and better-developed trainings to judges and other decisionmakers in family law matters.

3) Prohibits a family court from ordering reunification treatments, programs, or services, including, but not limited to, camps, workshops, therapeutic vacations, or educational programs that, as a condition of enrollment, require or result in any of the following:

   a) A no-contact order.

   b) An overnight stay, out-of-state, or multiday stay.

   c) A transfer of physical or legal custody of the child.

   d) The use of private youth transporters or private transportation agents engaged in the use of force, threat of force, physical obstruction, acutely distressing circumstances, or circumstances that place the safety of the child at risk.

   e) The use of threats of physical force, undue coercion, verbal abuse, intimidation, isolation from a child's family, community, or other sources of support, or other acutely distressing circumstances.

4) Provides that 1) does not affect the applicability of Welfare and Institutions Code 16507, which authorizes a county welfare department to provide family reunification services for a child who falls under the jurisdiction of the juvenile court and has been removed from the custody of their parents or guardians, as specified.

5) Specifies that an existing judicial training and education program for judicial officers and other family court personnel shall be ongoing and designed to improve the ability of courts to recognize and respond to child physical abuse, child sexual abuse, domestic violence, and trauma in family victims, particularly children, and to make appropriate custody decisions that prioritize child safety and well-being and that are culturally sensitive and appropriate for diverse communities.

6) Requires the training program described in 5), above, to include a domestic violence session in any orientation session conducted for newly appointed or elected judges, an annual training session in domestic violence, and periodic updates in all aspects of domestic violence, including, but not limited to:

   a) Child sexual abuse.

   b) Physical abuse.

   c) Emotional abuse.

   d) Coercive control.

   e) Implicit and explicit bias related to parties involved in domestic violence cases.

   f) Trauma.

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

   h) The detriment to children of residing with a person who perpetrates domestic violence.

   i) That domestic violence can occur without a party seeking or obtaining a restraining order, without a substantiated child protective services finding, and without other documented evidence of abuse.

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

7) Requires the Judicial Council to report to the Legislature and the relevant policy committees, on or before January 1, 2025, and each January thereafter, on the trainings for judicial officers provided pursuant 4) and 5), above. The report shall include both of the following

   a) The titles and training courses being offered by Judicial Council; and

   b) The number of judicial officers that participated in each training.

Comments

According to the author, “Protecting children and survivors should always be a top priority, but unfortunately, family courts continue to fail. Since 2008, statistics

show an abusive parent or custodian have murdered over 900 children nationwide. SB 331 will strengthen protections for children by prioritizing child safety in family court, requiring critical training and reporting for judicial officers and others deemed appropriate in family law matters and would ban the practice of court ordered reunification programs, which may have harmful impacts on children. SB 331, also known as Piqui's Law, is named after a 5-year-old boy tragically murdered in 2017 by his father during an unsupervised court ordered visitation. This is unacceptable, especially in circumstances where the protective parent, like Ana Estevez, pleaded with the court to request full custody and supervised visitation, knowing her child was in danger. This is just one of over 900 cases that demonstrate the need to strengthen the universal understanding of domestic violence and child abuse within our family courts. We must prevent families from suffering the pain of a murdered child to ensure child safety is a priority by providing relevant and appropriate judicial training and reporting, banning reunification programs and having qualified experts testify in court. Furthering education and training for judges and all individuals relevant in family law matters will ensure courts are able to make the best decision possible, providing equal and fair justice under the law."

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

According to the Assembly Appropriations Committee, this bill presents costs (Trial Court Trust Fund, General Fund) to the courts of an unknown but significant amount, likely in the millions of dollars annually, to fulfill the training and reporting requirements in the bill. Judicial Council reports one-time costs of approximately $1 million to create and implement the training program for court employees, with ongoing costs of $850,000 annually to support the trainings, data collection, and annual report to the Legislature. Judicial Council reports significant additional ongoing costs of an unknown amount to provide the required training to child custody evaluators, guardians ad litem, child support commissioners, and other affected personnel, which are not typically court employees and are not included in Judicial Council's existing domestic violence trainings.

SUPPORT: (Verified 9/13/23)

California Protective Parents Association (co-source)
Crime Survivors Resource Center (co-source)
Family Court Awareness Month (co-source)
Advocates for Child Empowerment & Safety
Center for Judicial Excellence

Community Legal Aid SoCal
Family Violence Appellate Project
Incest Survivors' Speakers Bureau of California
Inner Circle Children's Advocacy Center
Joyfully Managed Family
LCSW Co-Parenting
Legal Aid Foundation of Los Angeles
Legislative Coalition to Prevent Child Abuse
Mothers of Lost Children
One Mom's Battle
Public Counsel
RCS Consultants
San Gabriel Valley Council of Governments
Senator Dianne Feinstein
Supervised Child Visits
University of California, Irvine School of Law Domestic Violence Clinic
Approximately 260 individuals

OPPOSITION: (Verified 9/13/23)

Association of Family Conciliation Courts
Judicial Council of California
Mothers Against Child Abuse
Parental Alienation Legislative Group
Parental Alienation Support Intervention Group
PAS-Intervention MD Chapter
Stop Abuse for Everyone
Approximately 50 individuals

ARGUMENTS IN SUPPORT: According to the California Protective Parents Association:

> In March of 2022, President Joe Biden signed the reauthorization of VAWA, which included new groundbreaking provisions to improve child safety laws within family courts, otherwise known as "Kayden's Law." Under this federal legislation, states may receive federal funding if they adopt child custody and domestic violence statutes to further prioritize child safety. If SB 331, "Piqui's Law," is enacted, California will be eligible to receive millions in federal funding over the next several years.
>
> Piqui's Law was named after a 5-year-old boy who was killed by his father in April 2017. Piqui's mother, Ana Estevez, fought hard in a California

family court to protect her child from her abusive ex-husband and father of Piqui. Despite her efforts, the court refused to stop visitation, leading to her son's tragic murder. We believe that Piqui's death was preventable, and that many other California children would not have been killed if our bench officials were better trained to intercede in dangerous cases.

Also, SB 331, will also stop the madness of the reunification FOR PROFIT programs that are literally ripping children from their safe, preferred, parents. These children, not only lose their preferred parent, but additionally lose their friends, schools, and communities to be reunited with alleged abusive parents.

ARGUMENTS IN OPPOSITION: According to the Judicial Council of California:

Government Code section 68555 currently requires that the council establish training programs for judges and other court personnel whose work involves domestic violence to provide them with information about the specific issues that arise when domestic violence is involved in a case before the court. That provision has been in the law since 1996 and was amended to include some clarifying language in 2018. SB 331 would amend that section to include a more prescriptive set of requirements that require that the council provide training on an extensive list of specific topics. This expansion of the Legislature's efforts to regulate judicial training represents an unnecessary intrusion into the operations of the judicial branch, especially as it has long demonstrated a commitment to robust training in these areas. The Legislature can use its authority as the policy making branch of government to limit the kinds of orders that courts can make based on its analysis of what best serves litigants in family law matters as SB 331 proposes to do, but the principle of separation of powers requires that the Legislature defer to the judicial branch on training judicial officers to ensure that they can implement the legislative changes enacted by the legislative branch.

The Judicial Council has been a leader in ensuring that domestic violence is an issue that is centered in judicial training and education, and there are multiple rules of court requiring domestic violence training for judicial officers, and for family court services personnel who perform duties in child custody disputes.1 These rules demonstrate that the council shares your interest in ensuring that this issue is given prominent consideration among the many other legal topics on which judges receive initial and ongoing training. The concerns regarding SB 331 arise as a result of the overly

prescriptive required topic areas included in the current version of the legislation which undermine the ability of the branch to exercise its independence in developing and providing appropriate and necessary training. SB 331 could have been amended to add the proposed list of topics to section 68555 as items for the council to consider when developing the training required pursuant to that section. This approach would signal the Legislature's strong preference for training to cover these topics, while deferring the final decisions to the judicial branch consistent with its co-equal status.

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
9/13/23 20:45:18

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

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

UNFINISHED BUSINESS

Bill No: SB 362
Author: Becker (D), et al.
Amended: 9/7/23
Vote: 21

SENATE JUDICIARY COMMITTEE: 9-2, 4/25/23
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Laird, Min, Stern, Wiener
NOES: Wilk, Niello

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 32-8, 5/31/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Data broker registration: accessible deletion mechanism

SOURCE: Privacy Rights Clearinghouse

DIGEST: This bill enhances the data broker registry law and transfers most of the attendant duties from the Attorney General to the California Privacy Protection Agency (PPA).

Assembly Amendments create additional exemptions, refine the enforcement structure and the deletion mechanism, and other amendments to address stakeholder concerns.

ANALYSIS:

Existing law:

1) Requires a business, on or before January 31 following each year in which it meets the definition of a data broker, to register with the Attorney General, as provided. (Civ. Code § 1798.99.82.)

2) Defines "data broker" as a business that knowingly collects and sells to third parties the personal information of a consumer with whom the business does not have a direct relationship, except as provided. (Civ. Code § 1798.99.80.)

3) Requires data brokers to provide, and the Attorney General to include on its website, the name of the data broker and its primary physical, email, and Internet Web site addresses. Data brokers may, at their discretion, also provide additional information concerning their data collection practices. (Civ. Code §§ 1798.99.82, 1798.99.84.)

4) Subjects a data broker that fails to register as required to injunction and civil penalties, fees, and costs. (Civ. Code §§ 1798.99.81, 1798.99.82.)

5) Provides that the above shall not supersede or interfere with the operation of the California Consumer Privacy Act (CCPA). (Civ. Code § 1798.99.88.)

6) Establishes the CCPA, which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civ. Code § 1798.100 et seq.)

7) Establishes the California Privacy Rights Act of 2020 (CPRA), which amends the CCPA and creates the PPA, which is charged with implementing these laws, promulgating regulations, and enforcement. (Civ. Code § 798.100 et seq.; Proposition 24 (2020).)

8) Provides consumers the right to request that a business delete any personal information about the consumer which the business has collected from the consumer. (Civ. Code § 1798.105(a).)

9) Provides a consumer the right, at any time, to direct a business that sells or shares personal information about the consumer to third parties not to sell or share the consumer's personal information. (Civ. Code § 1798.120.)

10) Provides that these provisions do not restrict a business' ability to collect, use, retain, sell, share, or disclose consumers' personal information that is deidentified or aggregate consumer information. (Civ. Code § 1798.145(a)(6).)

11) Provides various exemptions from the obligations imposed by the CCPA, including where they would restrict a business' ability to comply with federal, state, or local laws. (Civ. Code § 1798.145.)

12) Permits amendment of the CPRA by a majority vote of each house of the Legislature and the signature of the Governor provided such amendments are consistent with and further the purpose and intent of this act as set forth therein. (Proposition 24 § 25 (2020).)

This bill:

1) Transfers the relevant duties of the Attorney General in the data broker registry law to the PPA. It authorizes administrative actions to be brought against data brokers in violation by the PPA and increases the applicable fine to $200. Authorizes the PPA to adopt regulations in compliance with the Administrative Procedure Act, except as provided.

2) Updates definitions to cross-reference to the CPRA.

3) Exempts entities, or business associates of covered entities, to the extent their processing of personal information is exempt under Section 1798.146, from the obligations imposed on data brokers.

4) Allows for funds in the "Data Broker's Registry Fund," which shall include any monies collected or received by the PPA and Attorney General, to be used to offset certain costs, including enforcement costs and any costs associated with creating and maintaining the deletion mechanism.

5) Requires data brokers, when registering, to additionally provide various additional pieces of information. Requires data brokers to compile and report certain metrics related to CCPA compliance.

6) Requires the PPA to establish an accessible deletion mechanism, as provided, that allows consumers, through a single request, to request all data brokers to

delete any PI related to the consumer, as specified. Data brokers are required to regularly access the mechanism and process requests for deletion, as specified.

7) Provides that after a consumer has submitted a deletion request and a data broker has deleted the consumer's data pursuant hereto, the data broker must delete all personal information of the consumer, except as provided, beginning August 1, 2026. After a consumer has submitted a deletion request and a data broker has deleted the consumer's data, the data broker shall not sell or share new personal information of the consumer unless the consumer requests otherwise or the selling or sharing is otherwise permitted, as provided. Requires data brokers to undergo audits every three years to determine compliance with the data broker registry law.

8) Provides that the Legislature finds and declares that this act furthers the purposes and intent of the CPRA.

Background

Companies regularly and systematically collect, analyze, share, and sell the personal information of consumers. This includes data brokers that collect and profit from this data without having any direct relationship with the consumers whose information they amass.

In order to bring this industry into the light and more fully inform consumers about who is collecting their personal information and how, a data broker registry was established in California law requiring data brokers to register annually with the Attorney General. Responding to concerns that existing law does not do enough to bring this industry into the light and to provide consumers more control over their personal information, this bill bolsters the data broker registry law by, in part, requiring more information to be reported, including an annual report from data brokers on their compliance with CCPA/CPRA requests, increasing the penalties for violations, and transferring much of the relevant duties from the Attorney General to the PPA. It also expands consumers' deletion rights and requires the PPA to create an accessible deletion mechanism that allows a consumer, through a single request, to request that every data broker delete the personal information related to the consumer and held by the data broker, except as specified.

This bill is sponsored by Privacy Rights Clearinghouse. It is supported by a variety of consumer and privacy rights organizations, including Consumer Action and the Electronic Frontier Foundation. It is opposed by various industry groups, including

the Consumer Data Industry Association. For a more thorough analysis, see the Senate Judiciary Committee analysis, which is incorporated herein by reference.

Comments

According to the author:

"While California has taken steps to require data brokers to register with the Attorney General, our existing frameworks fall short of providing the necessary tools for individuals to protect their privacy. Currently, the data broker registry is impractical because it requires Californians to request each of the more than five-hundred registered brokers to delete their personal information, a practically impossible task for all but the most concerned consumers. Those that do attempt to delete their information using the data broker registry will find that the Right to Delete under the California Consumer Privacy Act is limited to information "collected from the consumer" and doesn't cover most of the information that a data broker will possess.

SB 362 seeks to address these concerns by creating a user-friendly webpage within the California Privacy Protection Agency where all Californians can delete their information from data brokers free of charge. The bill also strengthens our privacy rights by requiring data brokers to report what information they collect on us and mandating deletion of that information upon request. By making data brokers more transparent and accountable, we can better protect ourselves against potential misuse of our data and exercise our privacy rights."

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

According to the Assembly Appropriations Committee:

- Costs (Data Brokers' Registration Fund, General Fund) in the hundreds of thousands to low millions of dollars to CPPA to establish and maintain its data broker registry, issue and update regulations, establish and maintain the accessible deletion mechanism, and receive audits submitted by data brokers. CPPA reports costs of about $1.14 million in fiscal years (FY) 2024-26 and $600,000 in FY 2026-27 and ongoing. These costs cover a one-time IT contract to develop and implement the registry and accessible deletion mechanism, one limited-term position (an IT manager to manage the contract), and three permanent positions (an

attorney, an analyst, and an IT specialist). This estimate does not include resources needed by CPPA to enforce the DBRL, which may increase costs by an unknown but significant amount in additional staffing for attorneys and support staff. Costs to CPPA may be offset by fees, penalties, and expenses collected in the Data Brokers' Registration Fund. CPPA reports that the balance of the Data Brokers' Registration Fund was approximately $770,000 in May 2023.

- DOJ reports no costs associated with the transfer of duties required by this bill.

SUPPORT: (Verified 9/12/23)

Californians for Consumer Privacy (co-source)
Privacy Rights Clearinghouse (co-source)
Access Humboldt
Access Reproductive Justice
Attorney General Rob Bonta
Bet Tzedek Legal Services
Calegislation
California Association for Micro Enterprise Opportunity
CALPIRG
Center for Digital Democracy
Centro Legal de La Raza
Community Legal Services of East Palo Alto
Consumer Action
Consumer Attorneys of California
Consumer Federation of America
Consumer Reports
Electronic Frontier Foundation
Electronic Privacy Information Center
Encode Justice
Fairplay: Childhood Beyond Brands
Greenlining Institute
Legal Aid of Marin
Legal Aid of San Bernardino
Legal Assistance for Seniors
LGBT Technology Partnership & Institute
Oakland Privacy
Open Door Legal
Planned Parenthood Affiliates of California

Public Counsel
Public Law Center
Riverside Legal Aid
Santa Clara University, Alexander Community Law Center
Secure Justice
Ultraviolet Action
Watsonville Law Center
One individual

OPPOSITION: (Verified 9/12/23)

American Advertising Federation
American Association of Advertising Agencies
American Association of Political Consultants
American Fintech Council
American Financial Services Association
Association of National Advertisers
California Bankers Association
California Chamber of Commerce
California Financial Services Association
California Retailers Association
Consumer Brands Association
Consumer Data Industry Association
Digital Advertising Alliance
Experian
Insights Association
Interactive Advertising Bureau
Los Angeles Area Chamber of Commerce
National Business Coalition on E-Commerce and Privacy
National Federation of Independent Businesses
NetChoice
Software & Information Industry Association
State Privacy and Security Coalition
TechNet
Transunion, LLC

ARGUMENTS IN SUPPORT: Attorney General Rob Bonta writes:

> Though the California Consumer Privacy Act (CCPA) empowers individuals with a "Right to Delete" information from businesses that collect their personal information, that right is limited to that collected "from the

consumer." Data brokers may not always collect information from consumers directly, creating a loophole that leaves Californians unable to exercise this essential right and vulnerable to the risks associated with unauthorized collection, sale, and misuse.
It is impractical to expect Californians to individually exercise their privacy rights and request deletion from each of the more than five-hundred (and counting) data brokers registered with DOJ. Submitting individual deletion requests would be time-consuming and practically impossible for even the most dedicated consumers, but especially for those with limited access to technology or facing language barriers. Further, data brokers are not required to disclose what kind of information they collect from consumers. As a result, Californians are left unable to effectively protect their privacy and exercise their rights.

Accordingly, SB 362 seeks to strengthen the Data Broker Registration Law by requiring the California Privacy Protection Agency to establish an "accessible deletion mechanism." Beginning August 1, 2026, the mechanism would allow a consumer to make a single secure and verifiable request that data brokers which maintain personal information about the consumer proceed to delete that information—and to continue to delete personal information received about them in perpetuity.

ARGUMENTS IN OPPOSITION: The California Chamber of Commerce writes in opposition:

What consumers need is to know who these companies are, how to access the same privacy disclosures that they could access from any other business that they might have a direct relationship with, and how to initiate CCPA requests, the same as they would with other businesses – things that are already done by the existing repository created in AB 1202.

Data brokers provide services to many other businesses in support of anti-money laundering, sanction compliance, cybersecurity, and underwriting activities. Creating duplicative and conflicting reporting requirements and deletion obligations not only creates unnecessary work and increases the

chances of mistakes being made, but it also can undermine these legitimate and necessary functions.

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
9/13/23 20:39:13

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

SENATE RULES COMMITTEE SB 369
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 369
Author: Nguyen (R) and Gonzalez (D)
Amended: 9/1/23
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 4/12/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Pupil instruction: model curricula: Vietnamese American refugee experience: Cambodia and the Cambodian American refugee experience

SOURCE: Author

DIGEST: This bill requires that the model curriculum related to the Vietnamese American refugee experience include the period from the Vietnam War and the Fall of Saigon in 1975 to the year 2000, and modifies the model curriculum on the Cambodian Genocide to instead focus on Cambodian American history and heritage.

Assembly Amendments clarify that the model curriculum focus on Cambodian American history and heritage rather than culture, history, heritage.

ANALYSIS:

Existing law:

1) Requires the CDE no later than March 1, 2022, in collaboration with, and subject to the approval of the executive director of the State Board of Education (SBE), to enter into a contract with a COE or a consortium of COEs for the purposes of developing a model curriculum related to the Vietnamese American refugee experience by September 1, 2024. (Education Code (EC) § 33540.2 (a))

2) Requires the CDE no later than March 1, 2022, in collaboration with, and subject to the approval of, the executive director of the SBE, to enter into a contract with a COE or a consortium of COEs for the purposes of developing a model curriculum related to the Cambodian Genocide by September 1, 2024. (EC § 33540.4 (a))

3) Requires the COE or consortium of COEs shall consult with, but is not limited to consulting with, survivors of the Cambodian Genocide, representatives of LEAs, members of the commission, and teachers, including teachers who have relevant experience or educational backgrounds in the study and teaching of the Cambodian genocide. (EC § 33540.4 (b))

4) Specifies the model curriculum related to the Cambodian Genocide must include the incorporation of writings or other media that represent all perspectives of the Cambodian genocide, including oral testimony by survivors, to ensure quality standards and materials for this area of study, as specified. (EC § 33540.4 (c))

5) Encourages, beginning in the school year following the completion of the model curriculum, each LEA, charter school, or COE maintaining kindergarten or any of grades 1 to 12, inclusive to offer to pupils a course of study relative to the Cambodian Genocide. (EC § 33540.4 (h))

6) Specifies that if a LEA, COE, charter school that elects to offer a course of study in the Cambodian Genocide, then they must offer that course as an elective in the social sciences or world history and make that course available in at least one year during a pupil's enrollment in grades 7 to 12. (EC § 33540.4 (h))

This bill:

1) Requires that the model curriculum related to the Vietnamese American refugee experience include the period from the Vietnam War and the Fall of Saigon in 1975 to the year 2000.

2) Recasts the model curriculum on the Cambodian Genocide as the model curriculum on Cambodian American history and heritage.

3) Makes changes to the process required to develop the model curriculum on Cambodian American history and heritage, including by requiring that:

   a) The County Office of Education (COE) or consortium of COEs producing the model curriculum ensure the inclusion of a myriad of voices and perspectives in the development of the model curriculum and provide stakeholders' active engagement and participation across the state, including through town halls, community forums, and other forms of input;

   b) The COE or consortium of COEs consult with Cambodian Americans that span generations and have diverse social backgrounds, including educators, scholars, students, and artistic, creative, cultural, and religious groups, rather than survivors of the Cambodian genocide, representatives of local educational agencies (LEAs), members of the Instructional Quality Commission (IQC), and teachers, including teachers who have relevant experience or educational backgrounds; and

   c) The model curriculum include the incorporation of tangible and intangible expressions, including, but not limited to, writings, media, other artistic, cultural, and historical artifacts, multigenerational storytelling, and oral history that represent Cambodian American history and heritage, rather than the incorporation of writings or other media that represent all perspectives of the Cambodian Genocide, including oral testimony by survivors as specified, to ensure quality standards and materials for this area of study.

Comments

1) *Need for the bill.* According to the author, “SB 369 will offer the Cambodian and Cambodian-American community within California an opportunity to share their history and experiences through an accurate lens and provide students and educators with more historical and social context. The history of Cambodia and its people is a rich and diverse one that involves social and religious points of interest such as Angkor Wat but also includes an unfortunate struggle under

European colonialism, a transition from a monarchy to a despotic communist regime before finally achieving democracy and holding accountable the many figures and leaders who committed atrocities against the Cambodian people."

2) *Model Curricula Projects.* AB 167 (Committee on Budget, Chapter 252, Statutes of 2021) required the CDE in collaboration with, and subject to the approval of, the executive director of the SBE, enter into contracts with COE or a or consortium of COEs to develop model curriculum related to following:

   a) Vietnamese American Refugee Experience Model Curriculum;
   b) Cambodian Genocide Model Curriculum;
   c) Hmong History and Cultural Studies Model Curriculum; and
   d) Native American Studies Model Curriculum.

   Work on these projects began in 2022 and will conclude September 2025. The model curriculum related to the Vietnamese American Refugee experience, Cambodian Genocide, and Hmong History and Cultural Studies, according to the provision of AB 167, are to be completed by September 1, 2024 and September 1, 2025 for the model curriculum related to Native American studies.

   The CDE has entered into contract with a consortium of COEs to fulfill its statutory obligation. The Orange County Department of Education (OCDOE) has been tasked with developing model curriculum related to the Vietnamese American Refugee Experience Model Curriculum, Cambodian Genocide Model Curriculum, and Hmong History and Cultural Studies Model Curriculum. The Humboldt COE, San Diego COE have been tasked to jointly develop the model curriculum related to Native American Studies Model Curriculum.

   Related to the scope of the bill, the OCDOE has been holding meetings for the Cambodian Genocide Model Curriculum since October 7, 2022 and October 11, 2022 for the Vietnamese American Refugee Experience Model Curriculum. The remaining meetings in which the public can participate in regarding the CGMC are below. The last meeting for the Vietnamese American Refugee Experience Model Curriculum took place March 22, 2023. OCDOE encourages persons interested in participating in the writing of the curriculum

3) *How Curriculum, Standards, Frameworks, and Model Curricula Are Created and Adopted.* The Legislature has vested the IQC and SBE with the authority to develop and adopt state curriculum and instructional materials. The IQC develops curriculum frameworks in each subject by convening expert panels,

developing drafts, and holding public hearings to solicit input. Changes are frequently made in response to public comment. The frameworks are then adopted by the SBE in a public meeting. The SBE also adopts, in a public process, instructional materials aligned to those frameworks for grades K-8. School district governing boards and charter schools then adopt instructional materials aligned to these standards and frameworks. This process occurs on a regular schedule which gives schools a predictable timetable to plan and budget for changes to the curriculum. Local adoption of new curricula involves significant local cost and investment of resources professional development.

These existing processes involve practitioners and experts who have in-depth understanding of curriculum and instruction, including the full scope and sequence of the curriculum in each subject and at each grade level, constraints on instructional time and resources, and the relationship of curriculum to state assessments and other measures of student progress.

Model curricula were first developed in the 1990's in order to provide educators the means to teach about a topic in an in depth manner, on a voluntary basis. At that time, there were few resources available for this purpose on the Internet. Until 2016, only two model curricula were required to be developed.

Recent legislation has required the development of numerous model curricula. In 2021, through the budget, the state changed the process for the development of model curricula. COEs are now responsible for developing model curricula, in the form of open source, accessible resources available to California schools. The IQC and SBE no longer develops or approves model curricula.

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

According to the Assembly Appropriations Committee, "One-time General Fund costs in the tens of thousands of dollars to low hundreds of thousands of dollars to modify the scope of the Cambodian Genocide model curriculum. According to the California Department of Education (CDE), by recasting the scope of the Cambodian Genocide model curriculum that is already in development, it is likely that the entity contracted to develop the model curriculum (the Orange County Department of Education) would not be able to absorb the expansion within its existing contract with CDE. It is unclear how the Orange County Department of Education would accommodate increased costs imposed by this bill. Minor and absorbable General Fund costs to make relatively minor changes to the Vietnamese American Refugee Experience

model curriculum. To the extent these provisions impose additional duties on the contracted county office of education, the bill would impose a state-mandated local program.

SUPPORT: (Verified 9/13/23)

Santa Clara County Office of Education

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to the Santa Clara County Office of Education, “In 2021, the education budget trailer bill (AB 167) included language requiring the California Department of Education (CDE) to contract with a consortium of county offices of education (COEs) to develop model curriculum on the "Cambodian genocide" and the "Vietnamese refugee" experience. As currently written, the statute narrowly focuses on brief periods in Vietnam and Cambodia's histories which were marked by war, famine, fascism, and emigration. As part of the COE consortium drafting the model curriculum, the SCCOE shares stakeholder concerns that the current legislative directive fails to reflect the dynamic and rich history of the Cambodian and Vietnamese people and is working to ensure that the model curriculum covers a broader time period and historical perspective. We are therefore supportive of the proposed amendments in SB 369 which would update legislative language to align with the model curriculum currently being developed and includes a broader historical and cultural perspective."

Prepared by: Kordell Hampton / ED. / (916) 651-4105
9/13/23 20:39:12

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

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

UNFINISHED BUSINESS

Bill No: SB 386
Author: Newman (D)
Amended: 9/7/23
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 6-1, 4/18/23
AYES: Glazer, Allen, McGuire, Menjivar, Newman, Umberg
NOES: Nguyen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 32-8, 5/22/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Elections

SOURCE: Author

DIGEST: This bill extends signature verification periods within which the election officials must complete their determination of the number of qualified signatures on various state and local petitions, as specified. This bill also requires city election officials to publish a public notice with specified city election information no later than three days before the deadline for nomination papers, as specified. Finally, this bill repeals obsolete ballot language as it relates to presidential elections.

Assembly Amendments specify that the notice containing specific city election information could be posted on the city's website, include language pertaining to deadline extensions for signature verifications on petitions for recall if the deadline

extension could cause a recall election to be ineligible for consolidation with the next regularly scheduled election, and make technical changes.

ANALYSIS:

Existing law:

1) Establishes procedures for the filing of a state initiative or referendum petition with county election officials and the Secretary of State (SOS) to determine the validity and numerical sufficiency of the signatures submitted with the petition. Provides, if the number of signatures filed with all county election officials is 100% or more of the number of signatures required, the SOS is required to immediately notify county election officials. Requires, within 30 days after this notice, excluding weekends and holidays, county election officials to verify that those signatures were provided by qualified voters, as specified.

2) Permits an election official to use a random sampling method to determine the number of qualified voters who signed a county, city, or special district initiative or referendum petition, or a local recall petition if the number of signatures on the petition exceeds 500. If an election official uses this method, and if a specified percentage of valid signatures is demonstrated, the election official must complete the determination of the number of qualified voters in the case of a county, city, or special district petition within 60 days of the date the petition was filed, as specified; and in the case of a local recall petition, within 30 days of the date the petition was filed, as specified.

3) Requires a person, in order to be included on the ballot as a candidate for municipal office, to obtain nomination papers from a city election official and submit the nomination papers with a requisite number of signatures no later than the 88th day before the election. Requires ballots to contain specified instructions for voters in presidential elections.

This bill:

1) Extends the period of time an elections official has to complete signature verification and determine the number of qualified signatures on state and local petitions by 30 working days in situations where the official must do a "full check" of every signature on the petition, as specified. Provides that this extended verification period does not apply to the verification of signatures on a state or local recall petition if the SOS determines that the time reasonably needed to complete the 60-day signature verification process could cause the

recall election to be ineligible for consolidation with the next regularly scheduled election.

2) Requires a city elections official to post online or publish, no later than three days prior to the deadline for submitting nomination papers, specified information regarding open elective offices and how to file nomination papers.

3) Repeals obsolete ballot instructions printed on presidential election ballots.

Background

Signature Verification Timelines. In order to file a petition to place a measure on the ballot, members of the public must collect signatures that are later verified by county elections offices. During election season, employees in county elections offices are responsible for counting and tabulating ballots at the same time that they are required to continue petition signature verification. This overlap has resulted in the need to hire supplemental staff and has the potential to delay the vote count. SB 386 extends the deadlines on signature verification for enabling election officials to manage resources more efficiently. This bill also provides that this extended verification period does not apply to the verification of signatures on a state or local recall petition if the SOS determines that the time reasonably needed to complete the 60-day signature verification process could cause the recall election to be ineligible for consolidation with the next regularly scheduled election.

City Election Information. When a candidate runs for office in California they are required to reside within the boundaries of the district that they are seeking to represent. Problems can surface when post census electoral maps are updated to reflect changes in population distribution, and a sitting officeholder loses his or her right to seek re-election because their residence is excluded from the newly drawn version of the jurisdiction. Existing law also provides when an incumbent decides not to run for re-election the deadline for eligible candidates to submit nomination papers is extended by five days. The extension may not be granted if "there is no incumbent eligible to be elected." Existing law has been interpreted as applying to the situation when the incumbent has been "redistricted out." SB 386 intends to reduce confusion by requiring specified notifications about electoral guidelines on municipal websites at least three days prior to the filing deadline.

Modernizing the Elections Code. By law, every ballot in California printed in presidential election years is required to have instructions informing voters of the process by which presidential electors are chosen. These instructions regarding the election of political party delegates and presidential electors no longer apply to

California elections. Continuing to provide these instructions lengthens the ballot, increases printing costs, and potentially places election officials and offices at risk of being respondents to lawsuits for noncompliance with the section. SB 386 removes this section of law.

Comments

According to the author, SB 386 seeks to make three minor changes to California's Elections Code in the service of further ensuring transparency in the electoral process while more effectively stewarding the taxpayer dollars need for the conduct of elections.

Related/Prior Legislation

AB 698 (Obernolte, Chapter 14, Statutes of 2019) codified an election officials' best practice to prohibit the invalidation of a signature on a state, county, municipal, or district initiative or referendum petition or a charter amendment petition because of a variation of the signature caused by the substitution of initials for the first or middle name, or both, of the person signing the petition.

AB 1020 (Ridley-Thomas, Chapter 728, Statutes of 2015) updated statutes and deleted numerous obsolete provisions within the Elections Code in anticipation of the deployment of the federally mandated VoteCal statewide voter registration database.

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

According to the Assembly Appropriations Committee:

1) One-time costs of approximately $7,000 to the SOS to develop new written guidelines and procedures to account for the new signature verification timeline. SOS staff must also respond to related inquiries from county elections staff and the public.

2) By requiring city elections officials to publicize specified elections nomination information, this bill likely creates a state-mandated local program. If the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service for which the state must reimburse local costs, cities could claim reimbursement from the state. The magnitude of these costs is unknown, but likely minor.

   County elections officials will likely incur minor costs similar to the SOS to update local signature verification procedures. However, extending the period

for signature verification relaxes a state-mandated local program, likely resulting in overall cost-savings to counties.

SUPPORT: (Verified 9/13/23)

California Association of Clerks and Election Officials
California State Association of Counties
City Clerks Association of California
County of Los Angeles
League of Women Voters of California

OPPOSITION: (Verified 9/13/23)

Howard Jarvis Taxpayers Association

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/13/23 20:41:58

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

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

UNFINISHED BUSINESS

Bill No: SB 387
Author: Dodd (D), et al.
Amended: 9/1/23
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 4/11/23
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto
NO VOTE RECORDED: Jones

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 35-0, 5/8/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Laird, Limón, McGuire, Menjivar, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Alvarado-Gil, Hurtado, Jones, Min, Roth

ASSEMBLY FLOOR: Not available

SUBJECT: State property: sale or lease: broadband development

SOURCE: Author

DIGEST: This bill authorizes the Department of General Services (DGS) to enter into a lease, at an amount less than fair market value, in support of broadband development if specified conditions are met.

Assembly Amendments 1) add specified conditions that must be met in order to allow DGS to enter in a lease, at an amount less than fair market value, in support of broadband, 2) add reporting requirements, and 3) add coauthors.

ANALYSIS:

Existing law:

1) Authorizes DGS to lease real property under the jurisdiction of a state agency, department, or district agricultural association if the Director of DGS determines that the real property is of no immediate need to the state.

2) Requires the lease of real property to be set at the amount of the lease's fair market value, as determined by DGS.

3) Authorizes DGS to determine the length of terms or a use of the lease, and specify any other terms and conditions, which are determined to be in the best interest of the state.

4) Prohibits DGS from leasing specified real property, including lands under the jurisdiction of the State Coastal Conservancy or another state conservancy, the department of Transportation, the California State University system, the Department of Parks and Recreation, or the Department of Fish and Game.

5) Authorizes DGS, subject to legislative approval, to sell, lease, exchange, or transfer various specified properties for current market value, or upon such other terms and conditions that DGS determines are in the best interest of the state.

6) Authorizes DGS to sell surplus real property to a local agency or to a nonprofit affordable housing sponsor for affordable housing projects at a sales price less than fair market value if DGS determines that such a discount will enable housing for person and families of low or moderate income.

7) Establishes the California Broadband Council (CBC) in state government for the purpose of promoting broadband deployment in unserved and underserved areas of the state and broadband adoption throughout the state for the benefit of all Californians.

8) Establishes within the Government Operations Agency, the California Department of Technology (CDT), and generally tasks the department with the approval and oversight of information technology (IT) projects, and with improving the governance and implementation of IT by standardizing reporting requirements, roles and responsibilities for setting IT priorities.

9) Requires DGS, for every new lease entered into specified provisions that exceeds five years, to annually transmit a report containing specified information to each house of the Legislature.

This bill:

1) Authorizes DGS to lease property under the jurisdiction of a state agency, department, or district agricultural association, with the consent of that state agency, department, or district agricultural association in support of broadband infrastructure deployment to connect unserved or undeserved locations in the state, at an amount less than fair market value, if specified conditions are met, including that the lease terms enable the state to recover all direct costs for the term of the lease.

2) Requires a current DGS report to also list every new leave that is below fair market value and would require the report to include, for any lease to support broadband infrastructure deployment, a description of the related broadband infrastructure project, as specified.

Background

Purpose of the bill. According to the author's office, "we all know how important it is to have fast and reliable broadband. You need it to survive in today's economy. Unfortunately, broadband isn't yet deployed adequately or equitably in many areas of our state. My bill will ensure the state can effectively partner with internet service providers to lease state properties for deployment of broadband infrastructure. With this bill, the state can use its property to generate revenue while enticing providers to expand their offerings. It will fill in unserved zones and help get high-speed data to those who need it for work, school, and home life."

California's Digital Divide. It has been well documented that millions of Californians lack access to high speed, reliable internet. While some don't have internet speeds that are fast enough for their needs, some have no connection at all. Put simply, people and communities that lack access to broadband and those without the means to use it are falling behind.

Residents in less populated areas have much less access to broadband services. However, lack of broadband is not just a matter of where people live, but also income, education, age, race, ethnicity, and disability status. In other words, the poor, the less-educated, and the differently abled, seniors, and people of color also feel the costs of the digital divide.

The COVID-19 pandemic not only made the digital divide worse, but also reinforced our reliance on broadband. Access to reliable Internet access became a must in order to attend school, work, access healthcare, and stay connected with family and friends. Californian's ability to access and use broadband became the difference between being able to fully engage in life, or being completely cut off. In light of these challenges, the Governor issued Executive Order N-73-20 to improve connective throughout the state.

Broadband Action Plan. Executive Order N-73-20 directed the CBC to develop a statewide Broadband Action Plan (Plan) and promote digital equity throughout California. The CBC solicited extensive engagement and input from state and local agencies, state legislative leaders, tribal nations, broadband industry leaders, nonprofits, and members of the public. In addition to their own research, the CBC reviewed approximately 670 written comments and listened to ideas and concerns raised by many of the 150 organizations and more than 600 attendees that participated in listening sessions, online events, and meetings. The CBC completed the Plan in December 2020.

The Plan focuses on achieving three long-term goals: All Californians have high-performance broadband available at home, schools, libraries, and businesses; All Californians have access to affordable broadband and the devices necessary to access the Internet; and All Californians can access training and support to enable digital inclusion. To achieve these goals the CBC plans to leverage the state's full range of tools, including policy, programs, funding, partnerships, and collaborations with federal, local, and tribal governments.

Specific to this bill, the Plan called for DGS, in consultation with numerous state agencies and specifically CDT, to identify state property for possible use for the accelerated deployment of broadband services. Development on those properties could support economic development and digital equity, especially in underserved communities. Unfortunately, DGS' existing leasing authority limits the entities on whose behalf DGS may lease such properties and requires fair market value for each lease.

In order to effectively utilize those properties, this bill would provide DGS with that authority to enter into such long-term leases below fair market value for purposes of broadband development. The bill would require the appropriate state agency and the CDT to give their consent.

California Broadband Council. The CBC was established by SB 1462 (Chapter 338, Statutes of 2020) to promote broadband deployment in unserved and underserved areas of the state, and broadband adoption throughout the state.

The CBC identifies state resources, encourages public and private partnerships, and recommends strategic policy to establish effective structures for providing world class high speed Internet access throughout California. The 12-member CBC is run by the CDT's Office of Broadband and Digital Literacy, which provides support by managing the statewide ecosystem of individuals and organizations dedicated to closing the digital divide.

Related/Prior Legislation

SB 717 (Dodd, Chapter 813, Statutes of 2022) required CDT to submit a report to the Legislature by May 1, 2024, regarding specified barriers to broadband infrastructure deployment.

AB 2750 (Mia Bonta, Chapter 597, Statutes of 2022) required CDT to develop a state digital equity plan, as specified.

AB 2751 (E. Garcia, 2022) would have required CDT to develop and establish the Net Equality Program to ensure the state and state agencies shall only do business with an internet service provider that offers affordable home internet service to eligible households, as specified. (Failed Passage in the Senate Governmental Organization Committee)
SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) created, among other things, a structure and framework, for the construction of a $3.25 billion state-owned open-access middle mile broadband infrastructure through a third party administrator overseen by CDT.

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

According to the Assembly Appropriations Committee, the CPUC estimates ongoing annual costs of $203,000 for one permanent regulatory analyst position to engage in ongoing rule-making, perform additional research and analysis, prepare written responses to DGS projects and create and implement cross-agency processes (California Advanced Services Fund).

Also, CDT expects its costs to be minor and absorbable. DGS anticipates no costs as a result of this bill.

In addition, this bill may result in a significant foregoing of state revenue, to the extent this bill results in DGS leasing state real property at less than fair market value that it otherwise would have leased at fair market value, absent this bill. It is unclear the extent to which this would occur.

SUPPORT: (Verified 9/8/23)

The Broadband Association
California Broadband & Video Association
CTIA
US Telecom

OPPOSITION: (Verified 9/8/23)

None received

ARGUMENTS IN SUPPORT: According to supporters of the bill, "SB 387 will ensure that the state can effectively partner with internet service providers to lease state properties for broadband infrastructure deployment. These partnerships could assist in closing the digital divide in California."

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
9/13/23 20:38:11

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

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

UNFINISHED BUSINESS

Bill No: SB 401
Author: Limón (D) and Atkins (D)
Amended: 9/8/23
Vote: 21

SENATE BANKING & F.I. COMMITTEE: 5-0, 3/29/23
AYES: Limón, Bradford, Caballero, Min, Portantino
NO VOTE RECORDED: Niello, Nguyen

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones
NO VOTE RECORDED: Seyarto

SENATE FLOOR: 32-6, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Grove, Jones, Niello, Ochoa Bogh, Wilk
NO VOTE RECORDED: Nguyen, Seyarto

ASSEMBLY FLOOR: Not available

SUBJECT: Digital financial asset transaction kiosks

SOURCE: Author

DIGEST: This bill provides for the regulation of digital financial asset transaction kiosks, including limits on the total amount of transactions in a day, fee limitations, and a requirement to provide a receipt for every transaction.

Assembly Amendments increase permissible fees from 10% to 15% of transaction amounts, require a specified disclosure be provided to customers prior to effecting a transaction, delay the operative date of specified provisions to January 1, 2025,

or July 1, 2025, add contingent enactment language providing that this bill shall not go into effect unless AB 39 (Grayson) of this legislative session is also enacted, and makes technical and clarifying changes.

ANALYSIS:

Existing law:

1) Establishes the Department of Financial Protection and Innovation (DFPI) as the state agency responsible for licensing, regulating, and supervising a range of entities that provide financial products or services to California consumers, including but not limited to, securities issuers, broker-dealers, investment advisers, and investment advisers representatives; persons offering or selling off-exchange commodities; persons holding securities as custodians on behalf of securities owners; money transmitters; and persons offering or providing consumer financial products or services. (Financial Code Section 300)

2) Provides the California Consumer Financial Protection Law (CCFPL), which authorizes DFPI to take enforcement action against a person that engages in an unlawful, unfair, deceptive, or abusive act or practice with respect to consumer financial products or services. (Division 24 of the Financial Code, commencing with section 90000)

This bill:

1) Defines "digital financial asset transaction kiosk" as an electronic information processing device that is capable of accepting or dispensing cash in exchange for a digital financial asset.

2) Prohibits an operator of a digital financial asset transaction kiosk from the following:

    a) Accepting or dispensing more than $1,000 in a day from or to a resident.

    b) Collecting charges, whether direct or indirect, related to a single digital financial asset transaction that exceed the greater of five dollars ($5) or fifteen percent of the United States dollar equivalent of digital financial assets involved in the transaction.

3) Requires an operator to do the following:

    a) Provide a specified disclosure prior to effecting a digital financial asset transaction.

b) Provide a receipt with specified information for any transaction made at a kiosk.

c) Provide a list of all kiosk locations to DFPI, which DFPI shall make publicly available on its website.

4) Places the provisions of this bill into the new division of the Financial Code proposed by AB 39 (Grayson) of this legislative session and provides that this bill will not be effective unless AB 39 is also enacted.

Comments

According to the author:

> SB 401 establishes consumer protections for crypto kiosks to reduce fraud and other criminal activity and rein-in high mark-ups on crypto transactions. The bill mitigates the risk of transactions related to fraud and other criminal activity by limiting the amount of transactions to no more than $1,000 per customer per day. The bill also requires an operator of a crypto kiosk to provide a detailed receipt to a consumer with specified information about the transaction and caps the transaction fees that operators can charge to no more than $5 or 15% of the value of the transaction, whichever is greater.

Background

A digital financial asset transaction kiosk (more colloquially known as a "crypto kiosk") is a physical machine that allows a consumer to buy and sell crypto assets, like bitcoin or ether, using cash, debit or credit card, or bank transfer. Crypto kiosks are often found in grocery, convenience, or liquor stores, and generally target consumers who are less technologically savvy and less knowledgeable about crypto markets than consumers who purchase crypto assets on online and mobile platforms, such as Coinbase and Kraken.

Operators of crypto kiosks are not subject to any state oversight or regulation of their business practices. The Department of Financial Protection and Innovation has not deemed crypto assets as "money" under state money transmission laws, and California has yet to enact a regulatory framework for crypto-related business activities. Under federal law, operators must comply with laws designed to combat money laundering and terrorist financing, but consumers in California enjoy no legal protections designed to protect their financial interests when transacting at

crypto kiosks. According to Coin ATM Radar, there are over 3,300 crypto kiosks operating in California.[1]

1) *The use of Crypto Kiosks for Criminal Activity*

Crypto kiosks have garnered negative attention from law enforcement for their use in various criminal activities. These criminal activities can generally be organized in two categories: fraud and organized crime.

Fraud

The very design of crypto kiosks makes them an attractive vector for scammers and fraudsters seeking to take advantage of people. According to TRM Labs, a leading blockchain analytics company:

> Crypto ATMs are marketed as tools to help individuals convert their money into crypto with maximum privacy and ease, and less friction than at crypto exchanges. Crypto ATMs can be an attractive payment method for elderly people and others who might be otherwise unfamiliar with crypto. These characteristics also make them attractive vehicles for scammers.
>
> Cash-to-crypto services are not associated with any one particular type of scam. Instead they are used by perpetrators of romance scams, investment scams, impersonation scams and others as neutral platforms enabling payment by victims.[2]

TRM is aware of $40 million sent to known scam addresses via cash-to-crypto services, such as crypto kiosks, in 2022, making up 4% of the total cash-to-crypto market. TRM acknowledged that figure will likely be adjusted upward as new schemes become unmasked.

The Federal Bureau of Investigation (FBI) recently issued an alert regarding a spike in crypto investment schemes.[3] The FBI release states:

> The schemes are socially-engineered and trust-enabled, usually beginning with a romance or confidence scam and evolving into cryptocurrency investment fraud. Criminals use fictitious identities to develop relationships and build rapport with victims. Criminals target

[1] **https://coinatmradar.com/state/6/bitcoin-atm-california/**
[2] **https://www.trmlabs.com/post/crypto-atm-payments-linked-to-known-scam-addresses**
[3] **https://www.ic3.gov/Media/Y2023/PSA230314**

victims using dating applications (apps), social media platforms, professional networking sites, or encrypted messaging apps.

Once trust is established with victims, criminals introduce the topic of cryptocurrency and claim to have expertise, or an affiliation with experts, who can help potential investors achieve financial success. Criminals then convince victims to use fraudulent websites or apps, controlled by the criminals, to invest in cryptocurrency. Criminals coach victims through the investment process, show them fake profits, and encourage victims to invest more. When victims attempt to withdraw their money, they are told they need to pay a fee or taxes. Victims are unable to get their money back, even if they pay the imposed fees or taxes.

Crypto kiosks are not the exclusive or even primary means through which crypto-related frauds and scams are conducted, and some operators take measures to prevent and combat these forms of fraud from being perpetrated through their machines. Other operators, however, toe the line of negligence to outright criminal conspiracy in allowing their machines to be used for fraud, as indicated by a recent indictment of a crypto kiosk operator in Ohio who allegedly has knowingly benefited from victims of crypto scams.[4]

Organized crime

Federal government agencies have cited the use of crypto kiosks to facilitate drug and human trafficking and other organized crime. The Governmental Accountability Organization (GAO) published a report in December 2021 discussing the use of online marketplaces and crypto assets in drug and human trafficking.[5] The report cites findings from the Drug Enforcement Agency (DEA) that Mexican and Colombian transnational criminal organizations have used crypto kiosks to transfer proceeds internationally. The GAO report estimated kiosks have been rapidly increasing in the U.S., growing from about 560 in January 2017 to over 22,600 as of September 1, 2021. As market usage expands, FBI officials told the GAO that they expect to see an increase in the use of crypto kiosks for illicit purposes, including for human and drug trafficking.

[4] **https://cointelegraph.com/news/bitcoin-atm-firm-profited-from-crypto-scams-via-unlicensed-kiosks-secret-service**
[5] **https://www.gao.gov/assets/gao-22-105462.pdf**

2) *Consumer Protection Concerns*

As previously mentioned, crypto kiosks cater more toward consumers with low information about crypto markets, rather than consumers with high information. Targeting a less informed consumer segment raises concerns that an operator of crypto kiosks will price its offerings less competitively, knowing that its customer base is less likely to shop around for the best value. This concern is generally reflected in the marketplace with crypto kiosks typically collecting charges of 12 – 25% over the value of crypto assets, compared to trading fees of less than 1% on popular online platforms.

Kiosk operators attempt to justify high fees and mark-ups by pointing to their cost structures. According to operators, crypto kiosks are costly to provide, with significant expenses related to rents (i.e., payments to retailers for placing the kiosks in their stores) and cash handling (i.e., ensuring the kiosks are stocked with sufficient cash and that cash receipts are picked up timely and deposited in an operator's bank account). Additionally, it is likely that many kiosks experience very low utilization with only a few customers per day or week, exacerbating the economic challenges of operating a kiosk profitably without charging high mark-ups. The Legislature faces the question of whether consumers with low information about crypto markets should bear the costs of inefficient business models employed by kiosk operators.

In addition to high fees, many crypto kiosks require consumers to create a non-custodial digital wallet in which to hold their crypto assets. While opponents of this bill attempt to spin this feature as a consumer protection, non-custodial wallets present significant risks, especially to consumers who lack technological sophistication and knowledge of crypto-related technologies. Unlike crypto assets held in a custodial wallet at a major exchange, such as Coinbase, if a consumer loses or forgets their password to access their non-custodial wallet, their crypto assets are lost forever – there is no customer service to call or password reset option to recover their access. Given the customer segment that operators admittedly target (i.e., consumers who are typically unfamiliar with crypto markets), this mechanism for storage presents significant risk of loss that are unusual in traditional financial institutions, like banks, money transmitters, and securities brokerage accounts.

3) *Approach of this Bill*

This bill addresses the risks posed by crypto kiosks in several ways. In response to concerns about the use of crypto kiosks for fraud and other criminal activity, this bill seeks to mitigate the size of financial harm related to fraud and deter

the use of kiosks by criminal organizations by limiting the size of transactions that any person can initiate to $1,000 per day. To improve oversight of the industry, this bill requires operators to provide DFPI with the locations of all kiosks, which DFPI is required to post online, and to be licensed pursuant to AB 39 (Grayson). This transparency and licensure requirement will help both DFPI and local law enforcement crackdown on unregistered kiosks that they discover when investigating complaints. To address consumer protection concerns, this bill requires operators to provide specified disclosures and receipts, and to limit onerous fees, this bill caps charges at no greater than $5 per transaction or 15% of the transaction amount, whichever is greater.

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

According to the Assembly Appropriations Committee, ongoing costs of approximately $2.7 million to DFPI to provide oversight of DFA transaction kiosks (Financial Protection Fund). DFPI anticipates enforcement efforts will be similar to those undertaken in DFPI's existing licensure programs, necessitating multiple additional staff positions to establish relationships with operators and ensure compliance.

SUPPORT: (Verified 9/12/23)

California Police Chiefs Association
Consumer Federation of California
Older Women's League Sacramento Capitol

OPPOSITION: (Verified 9/12/23)

American Petroleum and Convenience Store Association
Athena Bitcoin
ATM Industry Association
Bitmachina
Bitstop
Budget Coinz
Cal Asian Chamber of Commerce
California Black Chamber of Commerce
California Fuels and Convenience Alliance
California Grocers Association
California Hispanic Chamber of Commerce
Cash2bitcoin
Chamber of Digital Commerce
Coin Time

Coinflip
Digitalcoin
General Bytes
Genesis Coin
Instabitatm
Kiosk Manufacturer Association
National Bitcoin ATM
Neighborhood Market Association
Powercoin
Rockitcoin
Westcliff Technologies, Inc.

ARGUMENTS IN SUPPORT: The Consumer Federation of California writes:

"Proper regulation and consumer protections are vitally important when it comes to the arena of cryptocurrency, an extremely volatile area of financial mechanisms where a consumer's wellbeing can be on the line…crypto ATMs not only charge an enormous transaction fee for the purchase or sale of crypto assets, with fees typically adding 12%-25% to the purchase price of a crypto asset, but they also serve as hotbeds to cover up illicit activity…SB 401 seeks to reduce Californian's exposure to financial harm associated with crypto kiosks and for that reason we respectfully ask for your support and aye vote on this bill."

ARGUMENTS IN OPPOSITION: The Blockchain Advocacy Coalition, along with a number of industry stakeholders, writes in opposition:

"Cryptocurrency kiosks operate as convenient, fast, and familiar currency exchanges, allowing everyday people the opportunity to purchase or sell cryptocurrency at their local convenience stores, grocery stores, or bodegas.

“SB 401 sets up a licensing regime for the industry, which will allow the CA Department of Financial Protection & Innovation to approve, audit, and collect information about all crypto kiosk operators in the state. This regime is welcomed by the industry and the consumers that use them. It will help create a statewide regulatory framework, increase protection for consumers, and help weed out bad actors. However, SB 401 also sets up an arbitrary fee cap and transaction limit amount, which given the capital costs of owning, installing, maintaining, and

operating a crypto kiosk, would drive these machines out of our communities and out of the state."

Prepared by: Michael Burdick / B. & F.I. /
9/13/23 20:57:07

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

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

UNFINISHED BUSINESS

Bill No: SB 407
Author: Wiener (D), et al.
Amended: 9/7/23
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 3-0, 4/17/23
AYES: Alvarado-Gil, Menjivar, Wahab
NO VOTE RECORDED: Ochoa Bogh, Hurtado

SENATE JUDICIARY COMMITTEE: 8-2, 4/25/23
AYES: Umberg, Allen, Ashby, Caballero, Durazo, Laird, Min, Wiener
NOES: Wilk, Niello
NO VOTE RECORDED: Stern

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 31-5, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Jones, Nguyen, Niello, Seyarto, Wilk
NO VOTE RECORDED: Dahle, Grove, Limón, Ochoa Bogh

ASSEMBLY FLOOR: Not available

SUBJECT: Foster care: resource families

SOURCE: Alliance of Child and Family Services
Equality California

DIGEST: This bill requires resource families to demonstrate an ability and willingness to meet the needs of a child, regardless of the child's sexual orientation, gender identity, or gender expression and adds specified responsibilities to the California Department of Social Services (CDSS) and counties related to ensuring that foster youth will be placed with lesbian, gay, bisexual, transgender, questioning, or another diverse identity (LGBTQ)-affirming resource families

Assembly Amendments make technical and clarifying changes.

ANALYSIS:

Existing law:

1) Establishes a state and local system of child welfare services, including foster care, for children who have been adjudged by the court to be at risk of abuse and neglect or to have been abused or neglected, as specified. (WIC 202)

2) Establishes a system of juvenile dependency for children for specified reasons, and designates that a child who meets certain criteria is within the jurisdiction of the juvenile court and may be adjudged as a dependent child of the court, as specified. (WIC 300 et seq.)

3) Requires out-of-home placement of a child in foster care to be based upon the selection of a safe setting that is the least restrictive family setting that promotes normal childhood experiences and the most appropriate setting that meets the child’s individual needs and is available, in proximity to the parent’s home, in proximity to the child’s school, consistent with the selection of the environment best suited to meet the child’s special needs and best interests. (WIC 16501.1(d)(1))

4) Defines a “resource family” to mean an individual or family that has successfully met both the home environment assessment and the permanency assessment criteria, as specified, necessary for providing care for a child placed by a public or private child placement agency by court order, or voluntarily placed by a parent or legal guardian. (HSC 1517; WIC 16519.5(c)(1))

5) Requires CDSS to implement the Resource Family Approval (RFA) process as a unified, family friendly, and child-centered process to replace the existing multiple processes for licensing foster family homes, certifying foster homes by licensed foster family agencies, approving relatives and nonrelative extended family members as foster care providers, and approving guardians and adoptive families. (WIC 16519.5(a))

6) Stipulates that a resource family shall be considered eligible to provide foster care for children in out-of-home placement and shall be considered approved for adoption and guardianship, and authorizes a county to approve a resource family to care for a specific child, as specified. (WIC 16519.5(c)(4))

7) Provides that approval of a resource family does not guarantee an initial, continued, or adoptive placement of a child with a resource family or with a relative or non-relative extended family member. Further, approval of a resource family does not guarantee the establishment of a legal guardianship of a child with a resource family. (WIC 16519.5(c)(6))

8) Provides that it is the policy of this state that all persons engaged in providing care and services to foster children, including, but not limited to, foster parents, adoptive parents, relative caregivers, and other caregivers contracting with a county welfare department, shall have fair and equal access to all available programs, services, benefits, and licensing processes, and shall not be subjected to discrimination or harassment on the basis of their clients' or their own actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. Further, clarifies that these provisions shall not be interpreted to create or modify existing preferences for foster parents or to limit the local placement agency's ability to make placement decisions for a child based on the child's best interest. (WIC 16013)

9) Specifies when placing foster children, the placing agency shall not decline to place a child with a resource family because of a resource family parent's actual or perceived sexual orientation, gender identity, or gender expression. (WIC 16518.5)

This bill:

1) Makes findings and declarations regarding LGBTQ youth in foster care and their right to be placed in out-of-home care according to their gender identity and the right to have caregivers that have received instruction on cultural competency and sensitivity relating to sexual orientation, gender identity and expression.

2) States the intent of the Legislature to have LGBTQ affirming resource families for youth in out-of-home care in county and foster family agency homes.

3) Requires a resource family to demonstrate an ability and willingness to meet the needs of the child regardless of the child's sexual orientation, gender identity,

or gender expression, and that, should difficulties around these issues arise, a willingness to obtain resources offered by the county or foster family agency or other available resources to meet those needs.

4) Requires CDSS to review an adequate number of county-approved resource families in each county to ensure that approval standards are being properly applied and requiring the review to include case file documentation and may include onsite inspection of individual resource families.

5) Requires counties to ensure that resource family applicants and resource families have completed caregiver training to have the necessary knowledge, skills, and abilities to support children of all races, ethnic group identifications, ancestries, national origins, colors, religions, sexes, sexual orientations, gender identities, mental or physical disabilities, or HIV statuses in foster care.

Background

According to the author, "SB 407 ensures that LGBTQ foster youth receive essential support by specifically requiring LGBTQ acceptance to be considered in the resource family approval (RFA) process, creating standard documentation for the assessment of LGBTQ youth needs, and ensuring more frequent follow-up. These youth are at greater risk for homelessness, criminal justice involvement, and mental health challenges, and we must do everything in our power to ensure they have a safe home in the state of California"

Resource Families and the Resource Family Approval (RFA) Program A resource family is a caregiver who provides out-of-home care for children in foster care, previously referred to as foster parents. Resource families play a critical role in the CWS system, providing placements for foster youth in a family-based setting. A resource family can include individuals, couples, and families, who may be related to the child, have a familiar or mentoring relationship, or have no previous relationship to the child. Resource families are approved to provide care on a temporary (foster care) and/or permanent (adoption and legal guardianship) basis. Resource families work together with the CWS system and the child's biological family to provide for the needs of the child, and, when appropriate, facilitate family reunification, and provide a child with a feeling of safety, permanence, and well-being. Furthermore, resource families facilitate the implementation of CCR by providing committed, nurturing, family-based settings as placements for children being served by the CWS system, instead of congregate care facilities.

The RFA Program created a single process for the approval of foster family homes, relative or non-relative extended family member (NREFM) homes for foster care,

and legal guardianship or adoption. It combines elements of each of these prior processes into a single approval standard, regardless of the child's case plan. RFA was designed to be a unified, family friendly, child centered process for the approval of home-based placements. The RFA process includes a psychosocial assessment, home environment check, and training for all resource families, including relatives, in order to prepare families to better meet the needs of vulnerable children and youth in the CWS system. Additionally, because RFA is the same process for both temporary and permanent placements, RFA can create opportunities for more direct routes to permanency for foster youth.

Prohibition on Discrimination Existing law, Welfare and Institutions Code (WIC) Section 16013, requires that all persons engaged in providing care and services to foster children, including all types of resource families – whether they are relative caregivers, adoptive parents, or foster parents, not be subjected to discrimination or harassment on the basis of their actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. This prohibition on discrimination and harassment does not guarantee placement, as the local placement agency still has the obligation to make placement decisions for a child based on that individual child's best interests. Additionally, existing law, WIC Sections 319 and 361.3, creates preferential consideration for placement requests by a relative or NREFM of the child; this preferential consideration is also ultimately limited by the best interest of the child.

Ensuring Foster Care Meets the Needs of LGBTQ Youth LGBTQ youth come into the foster care system for many of the same reasons as non-LGBTQ youth. However, for some LGBTQ youth, their entry into the foster care system is a result of their family rejecting or mistreating them because of their sexual orientation, gender identity or gender expression. Further, LGBTQ youth are overrepresented in foster care, with studies estimating about 30 percent of youth in foster care identify as LGBTQ.

LGBTQ youth face the potential of multiple levels of discrimination including race, class, disability, sexual orientation and gender identity. A survey of LGBTQ youth in New York City in out-of-home placement found that 78 percent were removed or ran away from their foster placements as a result of hostility toward their sexual orientation or gender identity, 100 percent reported verbal harassment in group homes, and 70 percent reported physical violence in group homes. 1 Facing this kind of hostility in the system of care they are placed in places LGBTQ youth in an untenable position – staying in a system that doesn't meant their needs, or run away.

Created by the Interagency Group on Youth Programs, Youth.gov reports that a high percentage of LGBTQ youth experience verbal harassment and physical violence after they are place in out-of-home care. A study of Los Angeles youth found 13 percent of LGBTQ youth reported being treated poorly by the foster care system, compared with 6 percent of non-LGBTQ youth. The author reports, "This bill came about from tragic reports of foster youth being placed in homes that were not affirming of their LGBTQ identities – even outright rejection of these youth. Furthermore, we have information from counties indicating that they were being forced to approve resource family applications even when applicants indicated that they were anti-LGBTQ."

LGBTQ youth often run away or are removed from their foster homes because of caregiver's hostility toward their sexual orientation or gender identity. These youth are also less likely than other youth to find permanent homes, either through reunification or adoption.

Related/Prior Legislation

AB 2466 (Cervantes, Chapter 967, Statutes of 2022) provided additional protections to resource families by prohibiting, when placing foster children, the placing agency from declining to place a child with a resource family because of a resource family parent's actual or perceived sexual orientation, gender identity, or gender expression.

AB 175 (Gipson, Chapter 416, Statutes of 2019) expanded the duties of the Office of the State Foster Care Ombudsperson, and expanded, clarified, and revised the rights of foster youth found under the Foster Youth Bill of Rights.

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

According to the Assembly Appropriations Committee, ongoing General Fund (GF) costs to counties of approximately $730,000 annually for increased administrative workload to provide a more in-depth assessment of an applicant family during the resource family approval (RFA) process. Although these county costs are state-mandated costs, they are not reimbursable, but instead must be funded by the state pursuant to Proposition 30 (2012). Proposition 30 requires legislation that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by 2011 Realignment (including child welfare services and foster care) to apply to local agencies only to the extent the state provides annual funding for the cost increase.

CDSS estimates minor and absorbable GF costs to work with stakeholders to develop standards and a caregiver handbook for caring for children and youth of all sexual orientations and gender identities.

SUPPORT: (Verified 9/13/23)

Alliance of Child and Family Services (co-source)
Equality California (co-source)
Aspiranet
Cal Voices
California Alliance of Caregivers
California Court Appointed Special Advocate Association
California Democratic Party
California Lgbtq Health and Human Services Network
California Transgender Advisory Council - Office of Lieutenant Governor
Californians for Justice
Child Abuse Prevention Center
Children's Law Center of California
City of Long Beach
City of Sacramento
County of Los Angeles Board of Supervisors
County of Santa Clara
Desert Aids Project D/b/a Dap Health
Equality California
John Burton Advocates for Youth
Los Angeles LGBT Center
Lyon-martin Health Services
National Association of Social Workers, California Chapter
National Center for Lesbian Rights
Nefesh LA
Sacramento Lgbt Community Center
Seneca Family of Agencies
Somos Familia Valle
The Source Lgbt+ Center
The Translatin@ Coalition
Transfamily Support Services
Transyouth Liberation

OPPOSITION: (Verified 9/13/23)

Alliance Defending Freedom

California Catholic Conference
California Family Council
California Parents Union
Carlsbad Citizens for Community Oversight
Fieldstead and Company, Inc.
Pacific Justice Institute - Center for Public Policy
Perk Advocacy

Prepared by: Heather Hopkins / HUMAN S. / (916) 651-1524
9/13/23 20:38:09

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

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

UNFINISHED BUSINESS

Bill No: SB 420
Author: Becker (D), et al.
Amended: 9/7/23
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 3/29/23
AYES: Allen, Dahle, Gonzalez, Hurtado, Menjivar, Nguyen, Skinner

SENATE ENERGY, U. & C. COMMITTEE: 17-0, 4/24/23
AYES: Bradford, Ashby, Becker, Caballero, Dodd, Durazo, Eggman, Gonzalez, Grove, McGuire, Min, Newman, Rubio, Seyarto, Skinner, Stern, Wilk
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/30/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

SENATE ENERGY, U. & C. COMMITTEE: 15-0, 9/13/23 (Pursuant to Senate Rule 29.10)
AYES: Bradford, Dahle, Ashby, Becker, Dodd, Durazo, Eggman, Gonzalez, Min, Newman, Rubio, Seyarto, Skinner, Stern, Wilk
NO VOTE RECORDED: Caballero, Grove, McGuire

ASSEMBLY FLOOR: 78-1, 9/11/23 - See last page for vote

SUBJECT: Electricity: electrical transmission facility projects

SOURCE: American Clean Power Associatio

DIGEST: This bill, among its provisions, exempts construction of a new electrical transmission facility, or other modification, including lines and substations, by an electrical corporation from the requirement to obtain discretionary permit from the California Public Utilities Commission (CPUC), if the electrical transmission facility meets certain requirements.

Assembly Amendments re-write this bill, specifically deleting the previous contents of this bill and replacing them with the current language.

ANALYSIS:

Existing law:

1) Establishes and vests the CPUC with regulatory authority over public utilities, including electrical corporations. (California Constitution Article XII)

2) Provides that the CPUC may supervise and regulate every public utility in the state and may do all things, whether specifically designated or in addition, which are necessary and convenient in the exercise of such power and jurisdiction. (Public Utilities Code §701)

3) Prohibits an electrical corporation from beginning the construction of a line, plant, or system, or of any extension thereof, without having first obtained from the CPUC a certificate that the present or future public convenience and necessity require or will require its construction. (Public Utilities Code §1001(a))

4) Provides that the extension, expansion, upgrade, or other modification of an existing electrical transmission facility, including transmission lines and substations, does not require a certificate that the present or future public convenience and necessity requires or will require its construction. (Public Utilities Code §1001(b))

5) Requires the CPUC, by January 1, 2024, to update General Order (GO)131-D to authorize each public utility electrical corporation to use the permit-to-construct process or claim an exemption under Section III(B) of that general order to seek approval to construct an extension, expansion, upgrade, or other modification to its existing electrical transmission facilities, including electric transmission lines and substations within existing transmission easements, rights of way, or franchise agreements, irrespective of whether the electrical transmission facility is above a 200-kilovolt voltage (kV) level. (Public Utilities Code §564)

This bill:

1) States the intent of the Legislature to streamline the regulatory approval process for electrical transmission lines and equipment that are critical to maintaining electrical reliability and meeting California's renewable and zero-carbon energy goals.

2) Expands the existing exemption from the requirement to obtain a certificate of public convenience and necessity (CPCN) to include the rebuilding of an existing electrical transmission facility.

3) Provides that the construction of a new electrical transmission facility, or other modification, including lines and substations, by an electrical corporation serving 10,000 or more retail customers does not require a certificate that the present or future public convenience and necessity requires or will require its construction, a permit to construct (PTC), or any other discretionary permit from the CPUC, if the electrical transmission facility meets certain requirements, including that is rated at not more than 138 kV.

4) Requires the CPUC, no later than January 1, 2025, to revise the general order to implement these changes so that all facilities that qualify under the provisions noted in (3) above will be treated as electric distribution facilities under the general order.

Background

Transmission projects. Electric transmission lines are generally high voltage lines that move electricity from generation resources (power plants) to distribution lines in neighborhoods. Companies, usually electric investor-owned utilities (IOUs), proposing the construction of new transmission, are required to obtain a permit from the CPUC for construction of certain specified infrastructure listed under Public Utilities Code §1001, including transmission projects. The CPUC reviews permit applications under two concurrent processes: (1) an environmental review pursuant to California Environmental Quality Act (CEQA), and (2) the review of project need and costs pursuant to Public Utilities Code §1001 and General Order (GO) 131-D (CPCN).

CPUC's GO 131-D. GO 131-D specifically addresses the procedures to be followed in applications for siting of electric transmission infrastructure. In

essence, it implements the requirements of Public Utilities Code §1001. Under GO 131-D, the CPUC has established the criteria that would trigger the need for a permit to build or renovate electrical facilities, including transmission lines and substations. Of the hundreds of major capital electric transmission projects completed in California each year, on average 1-2 per year may trigger a permit, and thus CEQA. Most projects are reviewed through the CPUC's advice letter approval process, which tends to be more simplified and expedient than a full application for a CPCN.

The level of analysis performed by the CPUC varies with the size (measured in voltage) of the transmission project.

- Projects below 50 kV are considered distribution projects, rather than transmission projects, and in general do not require CPUC approval.
- Projects between 50 kV and 200 kV require a PTC from the CPUC, which consists primarily of an environmental review pursuant to CEQA. The CPUC process generally does not require a detailed analysis of the need for or economics of these projects.
- Projects over 200 kV require a CPCN from the CPUC. The CPCN process analyzes the need for the project and the economics of the project, as well as, the environmental impacts of the project.

CAISO 20-year Transmission Outlook. The California Independent System Operator (CAISO) conducts its transmission planning process to identify potential system limitations as well as opportunities for system reinforcements that improve reliability and efficiency. The annual transmission plan fulfills the CAISO's core responsibility to identify and plan the development of solutions, transmission or otherwise, to meet the future needs of the electricity grid. The CAISO identifies projects that address grid reliability requirements, identify upgrades needed to successfully meet California's policy goals, and explore projects that can bring economic benefits to consumers. In 2021, the CAISO created a 20-Year Transmission Outlook for the electric grid, in collaboration with the CPUC and the CEC, with the goal of exploring the longer-term grid requirements and options for meeting the state's SB 100 clean energy objectives reliably and cost-effectively. The 20-Year Transmission Outlook estimates a significant amount, and expense, to construct and expand transmission facilities, including an estimated $10.74 billion in upgrades to existing facilities.

SB 529 (Hertzberg, Chapter 357, Statutes of 2022). SB 529 exempts extensions, expansions, upgrades, or other modifications of transmission projects from the more involved CPCN review and approval process. Instead, SB 529 authorizes

these projects to undergo the more streamlined and expedient PTC review and approval process at the CPUC. The bill requires the CPUC to update GO 131-D to authorize electric IOUs to use the PTC process or claim an exemption under Section III of the general order. GO 131-D mentions upgrades and modifications for specific types of projects (like substations in relation to PTC). The CPUC has noted it will need to define, or clarify terms, mentioned in the bill that are currently not defined (or mentioned) in the general order. These definitions include defining the thresholds under which projects may be exempted or utilize the PTC process. The existing GO 131-D was last adopted in 1994. SB 529 requires the CPUC to update GO 131-D by January 1, 2024. In May of this year the CPUC opened a proceeding (R. 2305018) and issued a Scoping Memo in July outlining the schedule for the proceeding, including a goal to adopt changes from SB 529 to GO 131-D by first quarter 2024.

Comments

SB 420. This bill is intended to expand the threshold for smaller voltage distribution lines which do not need to receive a discretionary permit at the CPUC, specifically raising the threshold from 50 kV to 138 kV, for projects meeting specified requirements. As such, these projects would be removed from CPUC review of these transmission projects for both the CEQA review and the PTC. Given that most of these sized projects only receive a PTC, treating them as distribution line project would for practical purposes remove the requirement for a PTC.

Proponents seek expediency in reviewing and approving transmission projects. The proponents of this bill argue that the estimated of transmission project noted in the CAISO 20-year Transmission Outlook necessitate moving expeditiously with review and approval of these projects. They argue that the current requirements for a CPUC permit process hampers the ability of deploying necessary transmission projects in a timely fashion to support deployment of zero-carbon and renewable energy resources.

Concerns this bill's provisions could have unintended implications. The interest of proponents to simplify the process to review and approve transmission upgrades, modifications, and replacements to existing transmission projects is understandable, especially of those representing generating resources who have experienced frustrating delays to connect to the electrical transmission system. However, exempting these lower voltage projects from a CPUC permit could result in unintended consequences. These projects could be subject to other state agency

or local agency authority over environmental review. However, the proponents of this bill contend that local jurisdictions may likely be preempted from exercising any authority granted to the CPUC, as noted in the existing GO 131-D under XIV, B. which states:

> The General Order clarifies that local jurisdictions acting pursuant to local authority are preempted from regulating electric power line projects, distribution lines, substations, or electric facilities constructed by public utilities subject to the Commission's [CPUC's] jurisdiction.

This perspective may be further bolstered by Article XII of the California Constitution, Section 8 which states: "A city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission [CPUC]." The supporters of the bill state that SB 420 does not shift the discretionary permit authority to another entity. It strictly moves the voltage threshold for the need for a permit from the CPUC.

Judicial review. According to the CPUC, historically court review of CPUC environmental review for PTC or CPCN have not been a significant issue for transmission projects. If parties wish to challenge a CPUC CEQA decision, the challenge follows a unique judicial process, as set forth in the Public Utilities Codes §1756 *et seq.* Among its provisions, parties must file an application for rehearing at the CPUC, then wait 60 days or until the CPUC issues a decision resolving the applicant's complaint. Parties can then file a petition for review in the Court of Appeal or the California Supreme Court which generally processes all petitions in a 90-day timeframe. The CPUC shared they are unaware of the California Supreme Court overturning a CPUC PTC or CPCN decision based on a CEQA challenge. Additionally, most transmission projects are exempted from CEQA review and the CPUC finds most transmission projects that require a CEQA review to have the potential to cause little or no environmental damage. As such, the CPUC issues a negative declaration or a mitigated negative declaration for such projects. However, such streamlined judicial processes are not afforded to challenges to the CEQA decisions of other state agencies or local governments. Additionally, these projects may also be subject to federal environmental review under National Environmental Policy Act (NEPA). In this regard, it is not clear whether this bill will help expedite permitting of transmission projects as intended. Nonetheless, the proponents of the bill, including electric utilities, suggest there may be much to be gained by the proposed changes.

Related/Prior Legislation

AB 914 (Friedman, 2023) establishes a two-year time limit, from the date the application is accepted as complete, for a lead state agency to complete the CEQA review and approve or deny an application for an electrical infrastructure project. The bill was held in the Senate Committee on Appropriations.

SB 149 (Caballero, Chapter 60, Statutes of 2023) among its provisions, revised the procedures regarding CEQA administrative records and expedited administrative and judicial review procedures for ELDPs for specified projects, including transmission projects, that required the courts to resolve CEQA litigation within 270 days to the extent feasible and extends the ELDP sunset to January 1, 2034.

SB 319 (McGuire, 2023) requires the CEC and the CPUC, in coordination with the CAISO, to better and regularly coordinate planning and permitting of energy transmission infrastructure to ensure the state meets its clean energy goals and to evaluate and report on that planning and related infrastructure development. The bill also requires these state energy agencies to jointly develop an electrical transmission infrastructure development guidebook. The bill is pending on the Senate Floor.

SB 619 (Padilla, 2023) authorizes an electrical corporation that applies to the CPUC to authorize a construction of a new electrical transmission line rated at 138 kV or greater to apply to the CEC for certification of the facility pursuant to CEQA, instead of the CPUC conducting the CEQA review. The bill is pending in the Senate.

AB 205 (Committee on Budget, Chapter 21, Statutes of 2022) allowed certain energy projects, including electric transmission lines between certain non-fossil fuel energy generation facilities to become certified leadership projects under the Jobs and Economic Improvement Through Environmental Leadership Act of 2021 through a certification process through the CEC. With this certification, actions or proceedings related to the certification of an environmental impact report need to be resolves within 270 days to the extent feasible.

SB 529 (Hertzberg, Chapter 357, Statutes of 2022) exempts an extension, expansion, upgrade, or other modification of an existing transmission line or substations from the requirement of a CPCN and directs the CPUC to revise its general orders, by January 1, 2024, to instead use its PTC process for these approvals.

SB 887 (Becker, Chapter 358, Statutes of 2022) required 15-year projections of energy resource portfolios and energy demand to inform transmission planning to achieve the state's clean energy goals, among other provisions.

SB 1174 (Hertzberg, Chapter 229, Statutes of 2022) added consideration of transmission to some renewable and clean energy reports that existing statute requires retail electricity suppliers provide to the CPUC.

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

According to the Assembly Committee on Appropriations, minimal costs to the state, if any. This analysis assumes, to the extent this bill results in a state agency other than CPUC—such as the Department of Fish and Wildlife or the Coastal Commission—serving as a lead CEQA agency, costs would be transferred, generally, from CPUC to the other state agency, but no new state costs would be created as a result of this bill.

SUPPORT: (Verified 9/11/23)

American Clean Power Association (source)
350 Bay Area Action
350 Humboldt: Grass Roots Climate Action
350 Sacramento
Advanced Energy United
American Council of Engineering Companies
Bay Area Council
BOMA California
California Building Industry Association
California Business Property Association
California Business Roundtable
California Community Choice Association
California Construction and Industrial Materials Association
California Electric Transportation Coalition
California Environmental Voters
California Grain and Feed Association
California Manufacturers & Technology Association
California Municipal Utilities Association
California Retailers Association
California State Association of Electrical Workers
California Warehouse Association
California Wind Energy Association

Chamber of Commerce: Carlsbad, Chico, California, Garden Grove, Greater Bakersfield, Greater Coachella Valley, Greater Conejo Valley, Greater Escondido, Greater High Desert, La Verne, Livermore Valley, Long Beach Area, Murrieta Wildomar, Oceanside, Redding, Redondo Beach, San Pedro, South Bay Association, Torrance, Vista, and Walnut Creek
Clean Air Task Force
Clean Power Alliance
Clean Power Campaign
Climate Action California
Coalition of California Utility Employees
Elders Climate Action, NorCal Chapter
Elders Climate Action, SoCal Chapter
Electric Vehicle Charging Association
Environmental Defense Fund
Family Business Association of California
Harbor Association of Industry and Commerce
Independent Energy Producers Association
Indivisible San Jose
Large-Scale Solar Association
NAIOP California
Pacific Gas & Electric
Sacramento Municipal Utility District
Silicon Valley Leadership Group
Silicon Valley Youth Climate Action
Southern California Edison
Southern California Leadership Council
Southern California Public Power Authority
Terra-Gen Development Company
The Chamber Newport Beach
The Climate Center
The Climate Reality Project-Silicon Valley Chapter
Waste Management
Western Growers Association

OPPOSITION: (Verified 9/11/23)

None received

ARGUMENTS IN SUPPORT: According to the author:

> To meet California's target of 100% clean electricity by 2045, California will need to build out an unprecedented amount of new transmission and distribution capacity to connect the grid to where were are generating clean energy. Unfortunately, these lines aren't being built quickly enough to meet California's goals. Prior to the adoption of a 1994 Public Utilities Commission decision, the construction of small-voltage transmission projects below 200 kilovolts did not require utilities to obtain a discretionary permit from the Public Utilities Commission. Today, this discretionary permit exemption is only applied to lines under 50 kilovolts. These inconsistently applied permits result in substantial delays, lawsuits, and increases to the costs of projects such as distribution substations that are needed to expand the grid to accommodate demand electrification. SB 420 aims to reduce the time of transmission buildout by reverting this threshold, while still maintaining all other environmental protections provided by the state.

ASSEMBLY FLOOR: 78-1, 9/11/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Essayli
NO VOTE RECORDED: Bauer-Kahan

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
9/13/23 19:39:53

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

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

UNFINISHED BUSINESS

Bill No: SB 429
Author: Bradford (D)
Amended: 9/7/23
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

SENATE ENERGY, U. & C. COMMITTEE: 11-0, 9/13/23 (Pursuant to Senate Rule 29.10)
AYES: Bradford, Dahle, Ashby, Becker, Dodd, Eggman, Min, Newman, Rubio, Seyarto, Wilk
NO VOTE RECORDED: Caballero, Durazo, Gonzalez, Grove, McGuire, Skinner, Stern

ASSEMBLY FLOOR: 48-1, 9/12/23 - See last page for vote

SUBJECT: Transportation network companies: participating drivers: vehicle inspections

SOURCE: Author

DIGEST: This bill codifies vehicle inspection requirements for transportation network company (TNC) vehicles and requires TNCs to compensate certain drivers for their time spent completing a vehicle inspection.

Assembly Amendments delete the prior version of the bill and instead add language codifying TNC safety requirements and requiring TNCs to compensate certain drivers for their time completing a vehicle inspection.

ANALYSIS:

Existing law:

1) Authorizes the California Public Utilities Commission (CPUC) to supervise and regulate every charter-party carrier of passengers. (Public Utilities Code §5381)

2) Defines a charter-party carrier of passengers as every person engaged in the transportation of persons by motor vehicle for compensation over any public highway in this state, which includes any person or entity that provides a hired driver service using a rented vehicle. (Public Utilities Code §5360)

3) Requires each charter-party carrier of passengers to demonstrate its ability and financial capacity to provide transportation services before the CPUC can issue or renew a license to operate. Prohibits the CPUC from issuing a license to any entity that fails to demonstrate that it meets licensure requirements. Specifies various criteria companies meet prior to licensure, including, but not limited to, providing a safety education and training program for all employees or contractors operating vehicles for hired transportation services. (Public Utilities Code §5374)

4) Defines a TNC as an organization, including, but not limited to, a corporation, limited-liability company, partnership, sole proprietor, or any other entity, operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle. (Public Utilities Code §5431)

5) Authorizes the CPUC to establish requirements for TNC licensure, including inspection and safety requirements. (Public Utilities Code §5431)

6) Establishes various requirements for TNC driver insurance requirements, background checks, and prohibitions on contracting with a driver convicted of certain crimes within the prior seven years, including, but not limited to domestic violence, assault, and driving under the influence of alcohol or drugs. (Public Utilities Code §5342 et. seq.)

This bill:

1) Clarifies that TNCs must require vehicles to meet CPUC inspection requirements before allowing a driver to start providing services.

2) Specifies that TNC vehicle inspection must be performed by a mechanic affiliated with a facility licensed by the Bureau of Automotive Repair (BAR).

3) Clarifies that vehicle inspections may be completed on location, virtually, or remotely.

4) Specifies that TNC drivers that complete their first 10 trips within 28 days of the vehicle inspection are eligible for compensation for time spent completing the inspection.

5) Requires a TNC to compensate eligible drivers for the reasonable time spent completing a vehicle inspection at a rate of no less than 150 percent of the state-mandated minimum wage for all industries.

Background

This bill codifies several existing TNC vehicle inspection requirements. Existing law authorizes the CPUC to regulate TNCs and establish requirements for TNC drivers. The CPUC has adopted TNC vehicle inspection requirement through several decisions in its ongoing TNC rulemaking (R. 12-12-011). Under these decisions, the CPUC requires TNC vehicles to be inspected by a mechanic affiliated with facility licensed by BAR before a driver uses the car to provide rides and every 12 months or every 50,000 mile, depending on which occurs first. This bill codifies existing requirements for TNC vehicles to receive an inspection prior to being used to provide TNC services. This bill also requires these inspections to be conducted using a mechanic affiliated with a BAR-licensed car repair shop. Existing regulations do not prohibit remote or virtual vehicle inspections; however, it is unclear how existing CPUC rules could be applied to virtual and remote vehicle inspections. As a result, this bill may require the CPUC to revise its existing inspection requirements for TNCs and TNC drivers.

This bill requires TNCs to provide compensation to certain drivers for time completing inspections. This bill specifies that drivers who complete their first 10 rides within 28 days of their vehicle inspection are eligible for compensation for the reasonable time spent completing the vehicle inspection. This bill also requires TNCs to pay these eligible drivers at a rate no less than 150 percent of the state-mandated minimum wage for all industries. This compensation requirement may enable drivers who join a TNC after this bill's passage to obtain payment for their time completing a vehicle inspection to become a TNC driver.

Disputes over TNC worker status pose challenges for compensation requirements. This bill attempts to provide new TNC drivers with compensation for their time spent completing a vehicle inspection required to become a TNC driver. However, disputes about the worker status of TNC drivers makes achieving consensus about fair compensation for TNC drivers challenging. Currently, TNC workers are considered independent contractors under Proposition 22; however, litigation

regarding the status and rights of TNC workers is ongoing. This bill attempts to balance the desire to provide TNC drivers with additional compensation for vehicle inspections with their current status as independent contractors.

Related/Prior Legislation

AB 2716 (Grayson, 2022) would have established minimum TNC driver training requirements and required TNC to compensate drivers for completing the safety training. The bill was vetoed.

AB 880 (Obernolte, Chapter 618, Statutes of 2019) added human trafficking convictions to the list of felonies that disqualify a person from driving for a TNC and deleted outdated code.

AB 2986 (Cunningham, Chapter 286, Statutes of 2018) required TNCs to provide passengers with a driver's first name and picture, an image of the make and model of the vehicle, and the license plate number on its app.

AB 1289 (Cooper, Chapter 740, Statutes of 2016) required TNCs to conduct background checks for drivers and codified specific offenses that disqualify an individual from driving for a TNC, if the driver is convicted.

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

According to the Assembly Committee on Appropriations, the CPUC expects no significant costs as a result of this bill.

SUPPORT: (Verified 9/11/23)

California Chamber of Commerce
Silicon Valley Leadership Group
TechNet

OPPOSITION: (Verified 9/11/23)

California Labor Federation, AFL-CIO
California Teamsters Public Affairs Council
United Food & Commercial Workers, Western States Council

ARGUMENTS IN SUPPORT: According to the author:

> Thousands of Californians choose to earn money as a driver for a TNC's—some on a regular basis—and many on an intermittent and flexible basis. Regardless of the frequency, all are required to receive a vehicle inspection from a Bureau of Automotive Repair (BAR) certified facility annually.
>
> SB 429 will modernize the vehicle inspection requirement for TNC drivers. SB 429 would authorize drivers to meet existing vehicle inspection requirements by use of remote and virtual inspections, making work opportunities more accessible to drivers while ensuring drivers are compensated for the time taken to complete the inspection.

ARGUMENTS IN OPPOSITION: In opposition, the California Labor Federation states:

> We appreciate that the author amended this bill to ensure compensation of drivers for their time for inspection if they meet certain criteria, which is an improvement on the current PUC requirements. However, the amendments fail to fully address our concerns that TNC drivers are denied the rights of employees. This bill fails to reimburse drivers for the biggest cost of all – the cost of the inspection – which can cost $40 or more.

ASSEMBLY FLOOR: 48-1, 9/12/23
AYES: Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Berman, Boerner, Bryan, Juan Carrillo, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gabriel, Gallagher, Gipson, Grayson, Holden, Hoover, Irwin, Low, Lowenthal, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Rodriguez, Blanca Rubio, Sanchez, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wilson, Wood, Robert Rivas
NOES: Mathis
NO VOTE RECORDED: Addis, Bennett, Bonta, Calderon, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Garcia, Haney, Hart, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Santiago,

Schiavo, Wicks, Zbur

Prepared by: Sarah Smith / E., U. & C. / (916) 651-4107
9/13/23 20:57:08

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

SENATE RULES COMMITTEE SB 444
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 444
Author: Newman (D)
Amended: 9/1/23
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 3/22/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Community colleges: Mathematics, Engineering, Science, Achievement (MESA) programs

SOURCE: Faculty Association for California Community Colleges

DIGEST: This bill requires the California Community College (CCC) Board of Governors (BOG) to adopt regulations for the establishment and implementation of Mathematics, Engineering, Science Achievement (MESA) programs.

Assembly Amendments clarify operational goals and delete program management and use of funds requirements.

ANALYSIS:

Existing law:

1) Establishes the CCC under the administration of the BOG of the CCC, as one of the segments of public postsecondary education in this state. The CCC shall be comprised of community college districts. (Education Code (EDC) Section 70900)

2) Establishes that CCC districts are under the control of a board of trustees, known as the governing board, who has the authority to establish, maintain, operate, and govern one or more community colleges, within its district as specified. Permits districts to establish policies for and approve courses of instruction and educational programs. (EDC Section 70902)

3) Requires, under the Seymour-Campbell Student Success Act of 2012, that the Chancellor's Office of the CCC make available on its internet website a dashboard containing data on student progression and completion of transfer-level English, mathematics, and English as a Second Language courses, disaggregated by community and the specified student groups including MESA program students. (EDC Section 78213.1 (a)(9))

4) Requires, under the Student Transfer Achievement Reform Act, that the CCC and the California State University (CSU), to develop a student centered communication and marketing strategy in order to increase the visibility of the associate degree for transfer pathway for all students in California that includes, but not limited to, targeted outreach to first-year students through campus orientations and campus student support services programs that may include Federal TRIO Programs, First-Generation Experience, MESA, and Puente. (EDC Section 66748.5)

5) Provides that the Budget Acts of 2021 and 2022 provide a total of $36.4 million in ongoing Proposition 98 General Fund for CCC MESA programs and requires a community college district to use their local or other resources to match state funding.

This bill:

1) Requires that the BOG adopt regulations for the operation of MESA programs at community colleges that align with the programmatic components of MESA

programs and provides that the operation of MESA programs and the regulations adopted by the BOG accomplish all of the following goals:

a) Increase the number of socially, economically, and educationally disadvantaged students pursuing baccalaureate degrees in STEM majors who are eligible to transfer to four-year higher education institutions.

b) Implement efficient processes, practices, and use existing college transfer centers to achieve greater MESA program student transfer to four-year education institutions.

c) Implementation strategies to increase the rate at which MESA program students are deemed transfer-ready in STEM majors to four-year higher education institutions.

d) Improve the academic performance of MESA program students.

e) Increase the leadership skills and raising the educational expectations of MESA program students.

f) Strengthen relationships with educators and prospective employers in business and industry.

g) Establish partnerships with University of California (UC) and CSU mathematics, Engineering, Science, Achievement programs and Mathematics, Engineering, Science Achievement College Preparatory programs California Alliance for Minority Participation programs, or similar programs in an effort to provide optimal student support services.

h) Implement strategies to collaborate with campus programs, such as the Student Equity and Achievement Program and the Student Success and Support Program, to leverage additional resources and opportunities for MESA program students and ensure that MESA programs are integrated into campus culture and infrastructure.

2) Requires that the support provided by a community college for the MESA program supplement, but not supplant, the regular educational programs offered by the college to encourage and support the enrollment of MESA program students who seek a baccalaureate degree in STEM majors at four-year higher education institutions.

3) Prohibits the governing board of a community college district from using funds received from the state for the operation and administration of MESA programs to supplant existing college resources, programs, or services. The governing board may use MESA program funds to meet the matching requirements to receive federal funds, or funds granted by nonprofit foundations, designated for the same purposes as described in this bill.

4) Makes various statements about the Legislature's intent, including that the CCC recognize its responsibility for supporting programs that enhance educational opportunities for STEM majors, and for producing a diverse pool of baccalaureate degree graduates in STEM majors by preparing students for transfer to four-year higher education institutions.

5) Defines various terms for purposes of this bill including, "STEM majors," to mean Calculus-based science, technology, engineering and mathematics academic fields.

Comments

1) *Need for the bill.* According to the author, "Under SB 444, the Mathematics, Engineering, and Science Achievement (MESA) Program will be codified into the education code thereby providing the stability and evaluation necessary to serve students across the state. In addition, it will ensure that existing funding for this program is utilized for the operation and administration of MESA programs, services, and its students. The bill would require the Board of Governors to adopt regulations for purposes of MESA programs and would require those regulations to be consistent with specified requirements. This bill requires that these regulations accomplish certain goals regarding support for underserved and underrepresented students pursuing STEM degrees."

2) *Related Budget Activity*. AB 178 (Ting, Chapter 45, Statutes of 2022), the 2022 Budget Act provided up to $36.4 million in funding to allow all colleges to establish and support CCC MESA programs. It required funds to be made available to students on all community college campuses in order to improve California's STEM workforce while also assisting the state and nation in closing equity and achievement gaps. It also directed the Community College Chancellor's Office to distribute funds to each MESA program on an annual basis and to establish a minimum allocation for each program. Community college districts must contribute matching funds from local or other sources. AB 178 was silent on program objectives and of expectation for its operation.

This bill sets program goals and establishes guidelines for using state funds to supplement rather than replace existing community college district resources, programs or services available to MESA program students.

3) *MESA Program Supports Student Success in STEM.* MESA was established in 1970 to help educationally disadvantaged students in California in pursuing careers as engineers, scientists and other math-based professionals in order to help meet industry needs. Today its mission is to help underserved and under-representative students in achieving success in STEM studies and careers. MESA programs are state funded and its statewide office operates under the UC Office of the President. The program serves students in middle school, high school, community college and universities. MESA offers enrichment activities, hands-on competitions, counseling, academic support, industry involvement, and a supportive community environment to students. It has received numerous awards from the White House, industry and other organizations over the last 25 years, including recognition as one of the nation's top mentoring programs by the National Science Foundation, named among the five most innovative public programs in the nation by the Ford Foundation, named among the top national programs proven to help K-12 students to achieve in STEM fields by Bayer Corporation, and named a national semifinalist for its outstanding community college work by Excelencia in Education. The objectives outlined in this bill appear to align with those established by statewide MESA for their community college programs.

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

According to the Assembly Appropriations Committee, one-time General Fund costs of between about $37,000 and $117,000 for the CCC Chancellor's Office to update existing policies and procedures and make regulatory changes.

SUPPORT: (Verified 9/13/23)

Faculty Association for California Community Colleges
Community College Association of Mesa Directors
Rio Hondo College
San Jose-evergreen Community College District
Student Senate for California Community Colleges

OPPOSITION: (Verified 9/13/23)

None received

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
9/13/23 20:57:09

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

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

UNFINISHED BUSINESS

Bill No: SB 452
Author: Blakespear (D), et al.
Amended: 9/8/23
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 4/18/23
AYES: Wahab, Bradford, Skinner, Wiener
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 29-10, 5/24/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Grove, Hurtado, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Roth

ASSEMBLY FLOOR: Not available

SUBJECT: Firearms

SOURCE: Brady Campaign

DIGEST: This bill prohibits, commencing July 1, 2028, licensed firearm dealers from selling, offering, exchanging, giving, or transferring a semiautomatic pistol unless the pistol has been verified as a microstamping enabled pistol, if the Department of Justice (DOJ) has determined that microstamping components or microstamping-enabled firearms are available; makes it a crime for a person to

modify a microstamping-enabled pistol; and removes from the definition of an unsafe handgun a semiautomatic pistol without a microstamping component.

Assembly Amendments require the DOJ, on or before March 1, 2025, to engage an investigation to determine the technological viability of microstamping and prescribe a process to be followed if a determination of viability is made; delay prohibition against sale and transfer of non-microstamping enabled handguns to January 1, 2028; modestly expand exemptions to this prohibition; redefine "microstamping-enabled" to include a certification requirement and make it unlawful to knowingly or recklessly provide a false or misleading certification.

ANALYSIS:

Existing law:

1) Sets forth a definition of "unsafe handgun" for both revolvers and pistols.

    a) A revolver meets the definition of "unsafe handgun" if it (1) does not have a safety device that causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge, (2) does not meet the firing requirements for handguns, as specified, or (3) does not meet the drop safety requirement for handguns.

    b) A pistol meets the definition of "unsafe handgun" if (1) it does not have a positive manually operated safety device, as specified, (2) it does not meet the firing requirement for handguns, (3) it does not meet the drop safety requirement for handguns, (4) it does not have a chamber load indicator, (5) it does not have a magazine disconnect mechanism if it has a detachable magazine, or (6) it is not designed and equipped with a microscopic array of characters used to identify the pistol, as specified (see more below). (Penal Code § 31910(a), (b).)

2) Provides that a pistol meets the definition of unsafe handgun if it is not designed and equipped with a microscopic array of characters used to identify the make, model, and serial number of the pistol, etched or otherwise imprinted in one or more places on the interior surface or internal working parts of the pistol, and that are transferred by imprinting on each cartridge case when the firearm is fired. (Penal Code § 31910(b)(6)(A).)

3) Provides that the Attorney General may also approve a method of equal or greater reliability and effectiveness in identifying the specific serial number of a firearm from spent cartridge casings discharged by that firearm than that which is set forth in existing law, to be thereafter required where the Attorney

General certifies that this new method is also unencumbered by any patent restrictions. Approval by the Attorney General shall include notice of that fact via regulations adopted by the Attorney General for purposes of implementing that method (Penal Code § 31910(b)(6)(B).)

4) Includes definitions of "drop safety requirement for handguns" and "firing requirement for handguns." (Penal Code §§31900, 31905.)

5) Requires any concealable firearm manufactured in California, imported for sale, kept for sale, or offered for sale to be tested within a reasonable period of time by an independent laboratory, certified by the DOJ, to determine whether it meets required safety standards, as specified. (Penal Code, § 32010(a).)

6) Requires DOJ, on and after January 1, 2001, to compile, publish, and thereafter maintain a roster listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that have been tested by a certified testing laboratory, have been determined not to be unsafe handguns, and may be sold in this state, as specified. The roster shall list, for each firearm, the manufacturer, model number, and model name. (Penal Code, § 32015(a).)

7) Provides that DOJ may charge every person in California who is licensed as a manufacturer of firearms, as specified, and any person in California who manufactures or causes to be manufactured, imports into California for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in California, an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster of firearms determined not be unsafe, and the costs of research and development, report analysis, firearms storage, and other program infrastructure costs, as specified. (Pen. Code § 32015, subd. (b)(1).)

8) Sets forth procedures related to the retesting and removal of handguns on the roster of handguns that are not unsafe. (Penal Code §§32020, 32025.)

9) Provides that the DOJ shall, for each semiautomatic pistol newly added to the roster of "not unsafe" handguns, remove from the roster exactly three semiautomatic pistols lacking one or more specified safety features and added to the roster before July 1, 2022. (Penal Code §31910(b)(7).)

10) Provides that a person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, offers or exposes for sale, gives, or lends an unsafe handgun shall be guilty of a misdemeanor. (Penal Code §32000 (a)(1).)

11) Provides that the failure to report to the DOJ the sale or transfer of an unsafe handgun, as specified, may be subject to a civil penalty, and that in addition to any criminal penalty, the unlawful sale or transfer of an unsafe handgun obtained pursuant to specified provisions of existing law may be subject to a civil penalty, as specified. (Penal Code §32000(a)(2), (3).)

12) Establishes various exemptions to the prohibition above for specified firearms and use of unsafe handguns by law enforcement agencies. (Penal Code §32000(b).)

13) Prohibits a licensed gun dealer from processing a sale or transfer of an unsafe handgun between a person who has obtained it pursuant to an exemption and a person who is not authorized to possess one pursuant to an exemption. (Penal Code §32000(c).)

This bill:

1) Defines "microstamp" as a microscopic array of character used to identify the specific serial number of a firearm from spent cartridge casings discharged by that firearm.

2) Defines a "microstamping component" as a firing pin or other part of a semiautomatic pistol that will produce a microstamp on a part of an expended cartridge each time the pistol is fired.

3) Defines "microstamping-enabled" to mean either of the following:

   a) The firearm's manufacturer has certified that the firearm contains a DOJ-compliant microstamping component; or,

   b) A licensed firearms dealer or gunsmith has certified in writing that they have installed a DOJ-compliant microstamping component.

4) Provides that “producing microstamping components” may include, but is not limited to, the process of engraving a firing pin to modify the pin into a microstamping component.

5) Defines "semiautomatic pistol" as a pistol with an operating mode that uses the explosive energy of a fixed cartridge to extract the fired cartridge and chamber a fresh cartridge with each pull of the trigger.

6) Removes from the definition of an unsafe handgun a semiautomatic pistol without a microstamping component and repeals the requirement that pistols manufactured in the state contain microstamping technology.

7) Provides that, commencing January 1, 2028, if microstamping has been determined to be technologically viable, it is unlawful for a firearms dealer to sell or otherwise transfer a semiautomatic pistol unless it has been certified as a microstamping-enabled pistol.

8) Punishes a first violation with a fine of up to $1,000. Punishes a second violation with a fine of up to $5,000 and possible license revocation. Makes a third violation a misdemeanor and requires that the dealer's license be revoked.

9) Provides that a firearm dealer may sell or otherwise transfer pistols not equipped with microstamping technology if they were manufactured or delivered prior to January 1, 2028; are part of a private party transaction; or were transferred to a gunsmith or other specified entity for service or repair.

10) Requires the DOJ, on or before March 1, 2025, to determine whether microstamping technology is viable and specifies that such determination must include input from relevant stakeholders.

11) Provides that if microstamping has been determined to be technologically viable, then the DOJ must provide guidance on performance standards for entities engaged in producing microstamping components on or before September 1, 2025.

12) Provides that if microstamping has been determined to be technologically viable, then on or before July 1, 2026, the DOJ must give grants or enter into contracts with entities to produce DOJ-compliant microstamping components to be available for sale.

13) States that if microstamping has been determined to be technologically viable, then on or before July 1, 2027, the DOJ must determine whether the entities contracting with the DOJ are making their microstamping components commercially available at reasonable prices, or that options of microstamping-enabled firearms are otherwise readily available for purchase in the state.

14) States that a person who modifies a microstamping component of a firearm with the intent to prevent production of a microstamp is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine of not more than $1,000, or by both. The punishment for second or subsequent violations is imprisonment in the county jail for not more

than one year, by a fine of not more than $2,000, or by both. Exempts pistols manufactured prior to the effective date of these provisions.

15) Provides that it is unlawful to knowingly or recklessly provide a false certification that a firearm is microstamping enabled and that a violation can result in a civil penalty of $10,000 for each firearm and possible injunctive relief, as specified.

Comments

According to the author, “Microstamping is a reliable, cost-effective tool that imprints a unique code on shell casings fired from a firearm, providing law enforcement with valuable information to identify shooters and gun traffickers. This innovative technology enables law enforcement to identify the source of a crime gun and would allow for more effective investigations into homicides and other firearm-related crimes.

“Gun-related incidents are driving the increase in violent crime within the state and across the country. In 2021, the percentage of statewide gun crimes solved by law enforcement was only 40%, including only 55% for homicides. SB 452 will help state and local law enforcement solve crimes, break cycles of gun trafficking, and increase trust in law enforcement by ensuring investigations are based on evidence rather than potential bias. This legislation will break the stalemate that has existed since 2007, and finally ensure CA law enforcement has this tool to solve gun crime.”

“Microstamping” is a ballistics identification technology that uses laser engraving to imprint unique markings onto the firing pin of a firearm, which, when the gun is fired, are transferred to the cartridge casing. The markings that constitute the microstamp imprinted on the spent cartridge include specific information about the make and model of the gun that fired it, which can assist law enforcement in tracing the gun back to its owner. A microstamp on a spent shell casing works much the same way as a license plate on an automobile, which provides law enforcement a simple and direct method for tracing a vehicle to its registered owner.

In 1999, the Legislature passed SB 15 (Polanco, Chapter 248, Statutes of 1999), also known as the Unsafe Handgun Act (UHA), which made it a misdemeanor for any person in California to manufacture, import for sale, offer for sale, give, or lend any unsafe handgun, with certain specific exceptions. SB 15 defined an "unsafe handgun" as a handgun that (1) does not meet a specified “drop safety” test, (2) does not meet specified firing tests, and (3) does not have a requisite safety

device. The law also required DOJ to compile and publish a roster listing all of the handguns and concealable firearms that they deem "not unsafe" and which are certified for sale in the state. In 2007, the Legislature enacted AB 1471 (Feuer, Chapter 572, Statutes of 2007), which made microstamping capability a prerequisite for any semiautomatic pistol not already designated a safe handgun to be placed on the DOJ roster.

Between 2013 and 2020, no new handgun models incorporating microstamping technology were introduced to the California market, as manufacturers asserted that they lacked the capacity to microstamp cartridges from two places on the interior of the firearm, as required by AB 1471. Thus, in 2020, the Legislature passed AB 2847 (Chiu, Chapter 292, Statutes of 2020), which required microstamp markings in just one place on the interior of a firearm. However, since AB 2847 went into effect on July 1, 2022, no new firearm models equipped with microstamping technology have been introduced to the California market.

While California's existing microstamping requirement operates exclusively within the framework of the Unsafe Handgun Act and what firearms are deemed "not unsafe," this bill creates a separate and distinct restriction on the sale or transfer of *any* semiautomatic pistol by a licensed gun dealer unless the pistol has been verified as a "microstamping-enabled pistol," as defined by the bill. However, the restriction does not go into effect until January 1, 2028. This bill sets forth a series of increasing penalties for violations of this restriction, as well as several exemptions, most notably for firearms manufactured before January 1, 2028. Other prohibitions in this bill make it a misdemeanor to modify a microstamping-enabled pistol or microstamping component with the intent to prevent the production of a microstamp, except as specified, and make it unlawful to knowingly or recklessly provide a false certification that a firearm is microstamping enabled.

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

According to the Assembly Appropriations Committee:

- Costs to DOJ (General Fund) of an unknown but likely significant amount, potentially in the millions of dollars to tens of millions of dollars annually. This bill requires DOJ to conduct an investigation to determine the technological viability of microstamping. If the technology is viable, the department must provide written guidance on performance standards for production of microstamping components, enact a licensing scheme for production of microstamping components, and provide grants to or enter into contracts with licensed producers of microstamping components. Each of

these activities may significantly increase DOJ's workload and result in associated costs.

Per DOJ, the department does not have personnel with expertise related to criteria and development of performance standards for microstamping components, and it is unable to assess the equipment and microstamping methods that would be necessary to install or retrofit components on semiautomatic pistols. In light of these limitations, DOJ would likely need to hire new staff or contract out the duties added by this bill, which would result in significant costs to the department at least through 2027, and likely ongoing to the extent that licensing operations continue to add to DOJ's workload.

The 2023-24 budget shifts, from the General Fund to the Dealers' Record of Sale Account, $1.46 million and five positions in fiscal year (FY) 2023-24, $1.42 million in FY 2024-25, and $1.09 million ongoing for DOJ's continued implementation of previously enacted legislation pertaining to the handgun roster and microstamping requirements.

- Costs (Trial Court Trust Fund, General Fund) to the courts of an unknown amount to adjudicate violations of the misdemeanors added by this bill. This bill makes it a misdemeanor for a person to modify the microstamping component of a firearm in an attempt to prevent it from imprinting a microstamp. After two prior violations, the bill also makes it a misdemeanor for a firearms dealer to sell or offer for sale, after January 1, 2028, a semiautomatic pistol that is not equipped with microstamping technology. Once these provisions become enforceable, court costs will depend on the number of violations, prosecutorial discretion, and the amount of court time needed to adjudicate each case. A defendant charged with a misdemeanor is entitled to no-cost legal representation and a jury trial, which may lead to longer legal proceedings. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the General Fund. The 2023-24 Budget includes $105 million from the General Fund to backfill declining revenue to the Trial Court Trust Fund.

SUPPORT: (Verified 9/11/23)

Brady Campaign (source)
Everytown for Gun Safety Action Fund
Prosecutors Alliance California
Women for American Values and Ethics Action Fund

OPPOSITION: (Verified 9/11/23)

California Association of Highway Patrolmen
California Rifle and Pistol Association
California State Sheriffs Association
Defendingconstitutionalrights.com
Gun Owners of California, Inc.
National Shooting Sports Foundation, Inc.

Prepared by: Alex Barnett / PUB. S. /
9/13/23 20:45:19

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

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

UNFINISHED BUSINESS

Bill No: SB 474
Author: Becker (D), et al.
Amended: 9/7/23
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 3/28/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 34-5, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Laird, Limón, McGuire, Menjivar, Min, Newman, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NOES: Dahle, Jones, Nguyen, Niello, Seyarto
NO VOTE RECORDED: Hurtado

ASSEMBLY FLOOR: Not available

SUBJECT: Canteens

SOURCE: Ella Baker Center for Human Rights
Legal Aid At Work
Legal Services for Prisoners with Children
MILPA Collective
Women's Foundation California

DIGEST: This bill requires the California Department of Corrections and Rehabilitation (CDCR) to maintain a canteen at any active prison; requires CDCR to provide the necessary facilities, equipment, personnel, and merchandise for the

canteen; and prohibits the sale prices of the items offered in the canteen from exceeding 10% above the amount paid to the vendors.

Assembly Amendments cap the sale prices of items offered in the canteen at 35% above the amount paid to the vendors until January 1, 2028.

ANALYSIS:

Existing law:

1) Provides that CDCR may maintain a canteen at any prison or institution under its jurisdiction for the sale to persons confined therein of toilet articles, candy, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. Requires the director to specify what commodities are sold in the canteen. (Pen. Code, § 5005.)

2) Requires that the sale prices of the articles offered for sale be fixed by the director at the amounts that will, as far as possible, render each canteen self-supporting. (Pen. Code, § 5005.)

This bill:

1) Requires CDCR to maintain a canteen at any active prison or institution under its jurisdiction for the sale to incarcerated persons of toilet articles, candy, notions, and other sundries and requires CDCR to provide the necessary facilities, equipment, personnel, and merchandise for the canteen.

2) Prohibits the sale prices of the articles offered for sale from exceeding 10% above the amount paid to the vendors.

3) Includes uncodified legislative findings and declarations.

4) Makes other technical and conforming changes.

Background

Existing law authorizes CDCR to maintain and operate a canteen at any of the state's prisons where the incarcerated population can purchase toiletries, stationery, snacks, and other personal items. The department sets the prices of the items sold at the canteen, and existing law provides that the sale prices must be set at the

amounts that will, as far as possible, render each canteen self-supporting. (Pen. Code, § 5005.) Under existing law, any proceeds from the operation of the canteens are deposited into the Inmate Welfare Fund (IWF). (Pen. Code, 5006.) The money in the fund is to be used solely for the benefit and welfare of the incarcerated population. (*Id*.) Specifically, funds from the IWF may be used for:

- The establishment, maintenance, employment of personnel for, and purchase of items for sale to incarcerated individuals at canteens maintained at the state institutions.
- The establishment, maintenance, employment of personnel, and necessary expenses in connection with the operation of the hobby shops at institutions under the jurisdiction of the department.
- Educational programs, hobby and recreational programs, which may include physical education activities and hobby craft classes, inmate family visiting services, leisure-time activities, and assistance with obtaining photo identification from the Department of Motor Vehicles.
- Funding for programming by not-for-profit organizations.

Advocates argue that canteen items have unreasonably high prices compared to the prices of the same or similar items available to the general public. A 2020 report published by Initiate Justice found that 60% of the formerly incarcerated individuals surveyed by the organization could not afford canteen purchases while incarcerated, and some individuals reported that they had resorted to extreme measures to gain access to canteen items such as engaging in gang activity and sexual relationships. (Leslie Soble, Kathryn Stroud, and Marika Weinstein, *Eating Behind Bars: Ending the Hidden Punishment of Food in Prison* (2020) p. 11 available at <https://impactjustice.org/wp-content/uploads/IJ-Eating-Behind-Bars.pdf .)

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

According to the Assembly Appropriations Committee:

CDCR estimates annual revenue loss of approximately $29 million resulting from this bill. Currently, revenue from canteen sales is deposited into the Inmate Welfare Fund (IWF) and funds the operation of canteens and other programs and services for incarcerated people. If this bill is chaptered, CDCR would require additional support from the General Fund to continue fully funding those programs and services.

SUPPORT: (Verified 9/11/23)

Ella Baker Center for Human Rights (co-source)
Legal Aid At Work (co-source)
Legal Services for Prisoners with Children (co-source)
MILPA Collective (co-source)
Women's Foundation California (co-source)
A New Way of Life Reentry Project
ACLU California Action
All of Us or None San Diego
Alliance San Diego
Anti-Recidivism Coalition
Asian Solidarity Collective
Black Panther Party - San Diego
CAIR California
California Alliance for Youth and Community Justice
California Coalition for Women Prisoners
California Families Against Solitary Confinement
California Public Defenders Association
Californians for Safety and Justice
Californians United for A Responsible Budget
Center on Juvenile and Criminal Justice
City and County of San Francisco
Communities United for Restorative Youth Justice
Community Advocates for Just and Moral Governance
Del Cerro for Black Lives Matter
Disability Rights California
Empowering Women Impacted by Incarceration
Families United to End LWOP
Fresno Barrios Unidos
Friends Committee on Legislation of California
GRIP Training Institute
Hillcrest Indivisible
Indivisible 92116
Initiate Justice
Interfaith Worker Justice - San Diego
Jesse's Place Org
MILPA
Muslim American Society - Public Affairs & Civic Engagement
National Association of Social Workers, California Chapter
Partnership for the Advancement of New Americans

Pillars of the Community
Prosecutors Alliance California
Racial Justice Coalition of San Diego
Restore Oakland, Inc.
Rise Up- San Diego
Riverside All of Us or None
Rolling for Rights
RTime Co.
San Francisco District Attorney's Office
San Francisco Financial Justice Project
San Francisco Mayor London Breed
San Francisco Public Defender
San Francisco Treasurer José Cisneros
Santa Cruz Barrios Unidos
Secure Justice
Showing Up for Racial Justice Bay Area
Showing Up for Racial Justice, San Diego
Showing Up for Racial Justice Santa Cruz County
Sister Warriors Freedom Coalition; Social Workers for Equity & Leadership
Southeast Asia Resource Action Center
Starting Over
Team Justice San Diego
The Place4grace
Think Dignity
Transformative In-Prison Workgroup
Transitions Clinic Network
UnCommon Law
Universidad Popular
Uprise Theatre
Worth Rises
Young Women’s Freedom Center
Over 600 individuals

OPPOSITION: (Verified 9/11/23)

None received

Prepared by: Stephanie Jordan / PUB. S. /
9/13/23 20:38:13

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

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

UNFINISHED BUSINESS

Bill No: SB 482
Author: Blakespear (D)
Amended: 9/1/23
Vote: 21

SENATE HOUSING COMMITTEE: 10-0, 4/18/23
AYES: Wiener, Ochoa Bogh, Blakespear, Caballero, Cortese, McGuire, Seyarto, Skinner, Umberg, Wahab
NO VOTE RECORDED: Padilla

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Multifamily Housing Program: supportive housing: capitalized operating reserves

SOURCE: California Housing Partnership

DIGEST: This bill explicitly requires the Department of Housing and Community Development (HCD) to offer capitalized operating reserves to supportive housing units developed under the Multifamily Housing Program (MHP).

Assembly Amendments clarify that HCD can offer capitalized operating reserves to supportive housing units only after developers have sought capitalized reserves from other potential funding sources and outline project eligibility that HCD may

consider for capitalized operating reserves, such as availability of funds or individual financial needs.

ANALYSIS:

Existing law:

1) Establishes a number of programs at HCD to make housing more affordable to California families and individuals including, but not limited to, the following:

    a) Affordable Housing and Sustainable Communities Program (AHSC), which funds land-use, housing, transportation, and land preservation projects to support infill and compact development that reduce greenhouse gas emissions.
    b) Home Investment Partnerships Program (HOME), which creates and retains affordable housing for lower-income renters or owners by funding housing rehabilitation, new construction, and acquisition/rehabilitation of single- and multifamily projects.
    c) Infill Infrastructure Grant Program (IIG), which provides grant funding for infrastructure improvements that are an integral part of or necessary to facilitate new infill housing in residential and/or mixed-use projects.
    d) MHP, which funds the new construction, rehabilitation, and preservation of permanent and transitional rental homes for lower income households through loans to local governments, non-profit developers, and for-profit developers.
    e) No Place Like Home Program (NPLH), which funds the development of permanent supportive housing for persons who are in need of mental health services and are experiencing homelessness, chronic homelessness, or at risk of chronic homelessness.

2) Requires all housing developments that seek HCD funding comply with HCD's Uniform Multifamily Regulations (UMR). The UMRs require an operating reserve for the purpose of defraying potential operating shortfalls arising from unforeseen circumstances, beyond the rent-up period.

This bill:

1) Allows HCD to offer capitalized operating reserves to supportive housing units in MHP, after developers have sought capitalized reserves from other potential funding sources.

2) Allows HCD to consider project eligibility for capitalized operating reserves by the following factors:

   a) Availability of funds.
   b) Individual financial needs of the project.
   c) Whether developers have sought rent or operating subsidies from other potential funding sources.
   d) Any other factors HCD deems appropriate.

3) Adds "supportive housing" to the list of definitions that apply to program activities in MHP.

Background

Supportive services help extremely low-income (ELI) individuals (i.e., those earning less than 30% of the area median income) who suffer from homelessness stay stably housed. These supportive services can include intensive case management, medical and mental health care, substance abuse treatment, and employment services. These services are necessary for people formerly experiencing homelessness to retain housing, improve their physical and mental health, and live and work in their community. These services increase the operating costs for these types of developments. Because the rents are so low and the operating costs are higher, these developments often need a significant subsidy to pencil out.

Comments

1) *Capitalized Operating Subsidy Reserve (COSR).* COSRs provide an upfront subsidy to cover deficits in annual operating revenues for housing developments, primarily used for permanent supportive housing for ELI individuals. If a COSR is appropriated, the account is with HCD and HCD approves disbursements as needed. Banks need to see that developers have these operating costs set aside before financing is approved.

2) *Case Study.* A 48-unit housing development in southern California offers permanent supportive housing, where half of the units are for individuals and families who are homeless or near homeless with a prioritization for veterans and their families. Some of the supportive services that residents have access to include case workers, adult education, mental wellness, and career building. Part of the funding for this development is through NPLH, which gave the

housing development a COSR of $4,875,000. Unfortunately, NPLH is running out of funds.

As the state transitions future permanent supportive housing developments for those experiencing homelessness to MHP, these developments must continue to get the funding needed to allow developers to build them. This bill would allow for a permanent supportive housing development, like the one mentioned above, to guarantee they have enough operating reserves to continue supportive services long-term.

Related/Prior Legislation

SB 948 (Becker, Chapter 667, Statutes of 2022) replaced individual project transition reserves in HCD affordable housing programs to a pooled reserve model to free up significant financial resources that can be utilized to create more housing.

AB 434 (Daly, Chapter 192, Statutes of 2020) aligned six rental housing programs with MHP, to enable HCD to implement a single application and scoring system for making coordinated awards under all seven programs.

SB 3 (Beall, Chapter 365, Statutes of 2017) enacted the Veterans and Affordable Housing Bond Act of 2018 and authorized the issuance of $4 billion in general obligation bonds for housing programs, including: MHP, IIG, Transit Oriented Development Rental Housing Program, Joe Serna, Jr. Farmworker Housing Grant Fund, Local Housing Trust Fund Matching Grant Program, CalHome Program, Self-Help Housing Fund, and CalVet Home Loan Program.

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

According to the Assembly Appropriations Committee:

HCD estimates ongoing General Fund costs of approximately $187,000 annually for one staff position to conduct compliance monitoring activities for MHP supportive housing projects with capitalized operating reserves.

SUPPORT: (Verified 9/13/23)

California Housing Partnership (source)
Abode Communities
All Home
California Apartment Association

California Housing Consortium
Community Corporation of Santa Monica
Community Housing Improvement Program
Community Housingworks
Corporation for Supportive Housing
Council of Infill Builders
Danco Communities
Destination: Home
EAH Housing
East Bay Asian Local Development Corporation
East Bay YIMBY
Eden Housing
Grow the Richmond
Housing Authority of The City of Santa Barbara
Housing California
How to ADU
Jamboree Housing Corporation
Merritt Community Capital Corporation
Mountain View YIMBY
Napa-Solano for Everyone
Non-Profit Housing Association of Northern California
Northern Neighbors
Peninsula for Everyone
People for Housing - Orange County
Progress Noe Valley
Resources for Community Development
San Diego Housing Federation
San Francisco Housing Accelerator Fund
San Francisco YIMBY
San Joaquin Valley Housing Collaborative
San Luis Obispo YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
Self-Help Enterprises
South Bay YIMBY
Southside Forward
Ventura County YIMBY
Wakeland Housing and Development Corporation
YIMBY Action
YIMBY Democrats of San Diego County

OPPOSITION: (Verified 9/13/23)

1 Individual

ARGUMENTS IN SUPPORT: According to the author, "Capitalized Operating Subsidy Reserves (COSRs) are fundamental in guaranteeing that critically needed affordable housing development projects for homeless housing can be built. By requiring HCD to offer these COSRs through the Multifamily Housing Program, we can guarantee that more special needs units with life-changing supportive services are built and change the lives of our extremely low income neighbors for decades to come."

ARGUMENTS IN OPPOSITION: One individual wrote in opposition to this bill, stating that "The state of California and HCD should not be financing housing or subsidizing housing."

Prepared by: Mehgie Tabar / HOUSING / (916) 651-4124
9/13/23 20:39:15

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

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

UNFINISHED BUSINESS

Bill No: SB 485
Author: Becker (D)
Amended: 9/1/23
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

SENATE ELECTIONS & C.A. COMMITTEE: 5-1, 9/13/23 (Pursuant to Senate Rule 29.10)
AYES: Glazer, Allen, Menjivar, Newman, Umberg
NOES: Nguyen
NO VOTE RECORDED: McGuire

ASSEMBLY FLOOR: 63-10, 9/12/23 - See last page for vote

SUBJECT: Elections: election worker protections

SOURCE: Secretary of State Shirley N. Weber, Ph.D.

DIGEST: This bill provides additional specificity for penal provisions within the Elections Code as it pertains to a person who interferes with the officers holding an election, officers conducting a canvass, or with voters lawfully exercising their rights of voting at an election.

Assembly Amendments change the contents of the bill to provide for various provisions relating to election interference and voter intimidation.

ANALYSIS:

Existing law:

1) Provides that the Secretary of State (SOS) is the chief elections officer of the state and shall administer the provisions of the Elections Code. Requires the SOS to see that elections are efficiently conducted and that state election laws are enforced.

2) Makes it a felony for a person to interfere with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, as to prevent the election or canvass from being fairly held and lawfully conducted.

3) Makes it a felony for a person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, or to hire or arrange for another person to do so, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election.

4) Makes it a crime punishable by imprisonment in county jail or in state prison for a person to knowingly challenge a person's right to vote without probable cause or on fraudulent or spurious grounds; to engage in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voters from voting or to delay the process of voting; or to fraudulently advise any person that the person is not eligible or registered to vote when in fact that person is eligible or is registered, or who violates a provision of existing law relating to challenges of voters at a polling place. Makes it a felony to conspire to violate these provisions.

5) Makes it a crime punishable by a fine, imprisonment in county jail or in state prison, or by both a fine and imprisonment, for a person in possession of a firearm or any uniformed peace officer, private guard, or security personnel or any person who is wearing a uniform of a peace officer, guard, or security personnel to be stationed in the immediate vicinity of, or posted at, a polling place, or to hire or arrange for another such person do so without written authorization of the appropriate city or county elections official.

6) Makes it a misdemeanor for a member of the public to willfully engage in any attempt to ascertain the identity and ballot choices of a voter while observing the processing of vote by mail ballots, the semifinal official canvass, the official canvass, or a recount, as specified.

7) Requires the SOS to promulgate regulations establishing guidelines for county elections officials relating to the processing of vote by mail ballots and elections observers, as specified.

8) Defines the term "elections official" to mean any of the following: (a) a clerk or any person who is charged with the duty of conducting an election; or (b) a

county clerk, city clerk, registrar of voters, or elections supervisor having jurisdiction over elections within any county, city, or district within the state. Defines the term "elections official," for the purposes of provisions of law related to intimidation of voters, to mean the county elections official, registrar of voters, or city clerk.

9) Defines the term "precinct board" to mean the board appointed by the elections official to serve at a single precinct or a consolidated precinct, or vote center; when used in relation to proceedings taking place after the polls have closed to include any substitutive canvassing and counting board that may have been appointed to take the place of the board theretofore serving; or as a member of the precinct board and includes an election officer.

This bill:

1) Provides that "officers holding an election or conducting a canvass," for the purposes of the existing statute prohibiting election interference, includes, but are not limited to, the following:

   a) The SOS as the chief elections officer, and their staff, as it relates to performance of any of their duties related to administering the provisions of the Elections Code.

   b) Elections officials and their staff, including temporary workers, poll workers, and members of a precinct board in their performance of any duty related to assisting with holding an election or conducting a canvass.

2) Provides that "holding an election or conducting a canvass," for the purposes of the existing statute prohibiting election interference, includes, but is not limited to, the election observation process governed by the Elections Code and applicable regulations adopted by the SOS.

3) Provides that "voting at an election," for the purposes of the existing statute prohibiting election interference, includes, but is not limited to, voting in person at a polling place or at the office of the elections official, including satellite locations and voting by mail.

4) Provides that "voting at any election," for the purposes of the existing statute prohibiting threats to induce or compel a person to vote or refrain from voting at any election includes, but is not limited to, voting in person at a polling place or at the office of the elections official, including satellite locations and voting by mail.

Background

Current Protections in California. Many provisions of existing law seek to protect election workers and voters from bad actors. For example, current law makes it a felony for a person to interfere with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, as to prevent the election or canvass from being fairly held and lawfully conducted. However, according to the author and sponsor, the applicability of the term "officers holding an election" is unclear and this bill seeks to clarify who encompasses an "officer" by clearly stating the elections official and their permanent staff, temporary workers, and volunteers who conduct certain tasks during the election and canvass. Additionally, the author and sponsor state that the applicability of the phrase "holding an election or conducting a canvass" is also unclear. Thus, this bill defines what it means to "conduct an election or canvass" and what the phrase "voting in an election" includes.

Recent Surveys. In 2022, the Democracy Fund/Elections & Voting Information Center at Reed College conducted a national survey of local election officials. The goal of the survey was to lift up local election officials' voices in national, regional, and state conversations about election administration, integrity, and conduct. According to the survey, local election officials showed that nearly a quarter of them experienced threats of violence, harassment, or other instances of abuse as the result of their work.

Additionally, a 2023 survey conducted by the Brennan Center for Justice reached out to local election officials and reported that nearly one in three election officials have been harassed, abused, or threatened because of their job, and more than one in five are concerned about being physically assaulted on the job in future elections. Additionally, more than half of survey respondents expressed concern the attacks will make it more difficult to retain or recruit election workers in future elections.

Elections Observers. Elections observers are groups and individuals that observe the conduct of various aspects of California elections. Existing law requires the SOS to promulgate regulations establishing guidelines for county elections officials relating to the processing of vote by mail ballots and elections observers, as specified. The SOS is currently developing regulations to clearly set forth the rights and responsibilities of the election observers and the county elections officials and to provide uniform guidance to election observers and county elections officials for the observation process. It is anticipated that having clear guidance with respect to the observation process – in the form of these regulations

– will aid elections officials in addressing tense situations with election observers that have appeared more frequently in the past few elections.

The proposed regulations were submitted to the Office of Administrative Law and the proposed text of the regulations has been updated twice based upon public comments received during earlier public comment periods.

Comments

1) *Author's statement.* According to the author, recent surges in election misinformation created unprecedented attention on elections and election officials. This attention has led to negative outcomes for poll workers across the country, including here in California. Increased use of social media has facilitated the rapid dissemination of unverified information, fostering a surge in dangerous election misinformation. Consequently, this has fueled democratic division and skepticism towards electoral processes, prompting a wave of uncertainty and mistrust among the public.

   Among those burdened by this surge in distrust have been election workers and other parties that conduct elections. Unproven claims of fraud, tampering, or election interference have created undue barriers for election workers including threats to their personal safety and mental health.

   The escalating hostility and acrimonious discourse surrounding elections have taken a toll on elections officials and their staff. This strain on the election's workforce impedes their ability to effectively serve Californians and their communities. Concerns for personal safety and the well-being of their families prompt some individuals to leave the election profession altogether.

   This bill clarifies the parties involved in an election and expansive voting definitions as it relates to contact free voting like mail in voting or ballot drop boxes. Election workers play an integral role in our democracy and we must ensure their safety and wellbeing is protected from election interference and misinformation.

2) *Is Current Law Insufficient?* The author and sponsor believe this bill is necessary to ensure existing protections provide safety for election officials and other key election workers. The author and sponsor provided the following examples to demonstrate how the provisions of this bill will address certain instances that have occurred during California elections:

- A rally by a political party circled a polling place and prevented voters from accessing the location. Additionally, voters in at least one county reported organized groups setting up surveillance cameras at drop box locations. According to the author and sponsor, this bill addresses this behavior by expanding what it means to interfere with a voter who is "voting at an election" to specifically include dropping a ballot off at a dropoff location.

- A warning that individuals were posting on social media disruptive actions to prevent election workers from collecting ballots from drop boxes, such as placing live poisonous snakes, reactive chemicals, or other substances into drop boxes. This bill addresses this behavior by expanding current law to include interference with elections officials and their staff, including temporary workers and volunteers while performing their election related duties.

- During the pandemic there were situations where people refused to wear a mask and became irate at poll workers for enforcing mask mandates. Additionally, there were reports of misinformation that stated sharpies caused ballots to be unread by tabulators, and reports of observers taking sharpies from the hands of voters. This bill addresses this behavior by expanding existing law to include interfering with a poll worker while assisting with the conduct of an election or a canvass.

According to the author and sponsor, this bill provides more specificity to allow law enforcement to engage and address menacing, threatening, and obstructive behavior of individuals towards elections officials and their job duties. However, it is unclear whether current law fails to provide sufficient protections for all of those who are involved in administering an election. At least some of the conduct described above appears to be illegal under existing law. It is unclear whether the lack of a law enforcement response to those situations was due to an insufficient level of specificity in the law, in light of the fact that existing law is fairly broad and thus could be interpreted to protect all election workers from interference with bad actors.

On the other hand, it could be argued that the provisions of this bill may be helpful in light of recent election reforms and changes in way voters are choosing to return their ballots.

Related/Prior Legislation

SB 1131 (Newman, Chapter 554, Statutes of 2022) allowed individuals who face threats or acts of violence or harassment because of their work for public entities (including election workers) to participate in an existing address confidentiality program for reproductive health care service providers, employees, volunteers, and patients. SB 1131 also allowed employees and contractors of state or local election officials who face life-threatening circumstances to have their voter registration information made confidential.

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

According to the Assembly Appropriations Committee, by expanding the scope of an existing felony, this bill may result in additional individuals tried and convicted for the specified felony, resulting in potential cost pressures (General Fund (GF) or Trial Court Trust Fund) to the trial courts in increased workload, as a defendant is entitled to no-cost legal representation and a jury trial, and potential non-reimbursable incarceration costs if the defendant is convicted, which also cause GF cost pressure because the state has historically granted new funding to counties to offset overcrowding after the 2011 Realignment Act. Although the magnitude of these cost pressures ultimately depends on the number of defendants, the estimated workload cost of one hour of court time is $1,000 and the average annual cost to incarcerate a defendant in county jail is approximately $29,000.

SUPPORT: (Verified 9/13/23)

Secretary of State Shirley N. Weber, Ph.D. (source)
California Association of Clerks and Election Officials
California State Association of Counties
California Young Democrats
City Clerks Association of California

OPPOSITION: (Verified 9/13/23)

None received

ASSEMBLY FLOOR: 63-10, 9/12/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low,

Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NOES: Alanis, Chen, Megan Dahle, Essayli, Flora, Vince Fong, Gallagher, Mathis, Sanchez, Waldron

NO VOTE RECORDED: Davies, Dixon, Hoover, Lackey, Jim Patterson, Joe Patterson, Ta

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/13/23 18:30:10

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

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

UNFINISHED BUSINESS

Bill No: SB 496
Author: Limón (D), et al.
Amended: 9/7/23
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 4/19/23
AYES: Eggman, Nguyen, Dahle, Glazer, Gonzalez, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Wahab, Wiener
NO VOTE RECORDED: Seyarto

SENATE FLOOR: 40-0, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Biomarker testing

SOURCE: American Cancer Society Cancer Action Network
University of California

DIGEST: This bill requires Medi-Cal, and, a health plan contract or a health insurance policy that is issued, amended, delivered, or renewed on or after July 1, 2024, and Medi-Cal, to cover medically necessary biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's or insured's disease or condition to guide treatment decisions only if the test is supported by medical and scientific evidence, as specified.

Assembly Amendments:

1) Require coverage for medically necessary biomarker testing to be subject to utilization controls.

2) Delete the requirement that the decision to test must be supported by medical and scientific evidence, as defined in this bill; and, instead requires coverage to include biomarker tests that meet one of the criteria in this bill.

3) Revise the criteria to ensure Medicare Administrative Contractor determinations must be those for California, and evidence-based clinical practice guidelines must be supported by peer-reviewed literature and peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff. Add a criterion that includes standards set by the National Academy of Medicine.

4) Allow denied use of biomarker testing to be subject to grievance and appeal processes under state and federal law.

5) Require DHCS to direct, by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, that biomarker testing is to be provided in a manner that limits disruptions in care.

6) Require the all-county letter, plan letter, plan or provider bulletin, or similar instructions issued by the Department of Health Care Services (DHCS) to be based at a minimum on evidence-based, nationally recognized clinical practice guidelines, and may be based on consensus statements.

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, DHCS to administer the Medi-Cal program. [HSC §1340, et seq., INS §106, et seq., and WIC §14000, et seq.]

2) Requires a health plan contract and health insurance policy, except for a specialized health plan contract and policy, to be deemed to provide coverage

for all generally medically accepted cancer screening tests, subject to all terms and conditions that would otherwise apply. [HSC §1367.665 and INS §10123.20]

3) Prohibits a health plan contract and health insurance policy, except for a specialized health plan contract and policy from requiring prior authorization for either of the following:

   a) Biomarker testing for an enrollee with advanced or metastatic stage 3 or 4 cancer; or,

   b) Biomarker testing for cancer progression or recurrence in the enrollee with advanced or metastatic stage 3 or 4 cancer. [HSC §1367.665 and INS §10123.20]

4) Applies 3) above to health plan contracts and Medi-Cal managed care plan contracts with DHCS. [HSC §1367.665 and INS §10123.20]

This bill:

1) Requires a health plan contract, except for a specialized health plan contract, or a health insurance policy that is issued, amended, delivered, or renewed on or after July 1, 2024, to cover medically necessary biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's or insured's disease or condition to guide treatment decisions that meets any of the following:

   a) A labeled indication for a test that has been approved or cleared by the FDA or is an indicated test for an FDA-approved drug;

   b) A national coverage determination made by the federal Centers for Medicare and Medicaid Services;

   c) A local coverage determination made by a Medicare Administrative Contractor for California;

   d) Evidence-based clinical practice guidelines, supported by peer-reviewed literature and peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff; or,

e) Standards set by the National Academy of Medicine.

2) Requires a health plan or health insurer to use a specified process to determine whether biomarker testing is medically necessary.

3) Requires the health plan or health insurance policy to ensure that biomarker testing is provided in a manner that limits disruptions in care, including the need for multiple biopsies or biospecimen samples, but this bill does not require coverage of biomarker testing for screening purposes unless otherwise required by law.

4) Applies substantially similar provisions described above to the Medi-Cal program subject to utilization controls, and only to the extent federal financial participation is available and not otherwise jeopardized, and any necessary federal approvals have been obtained. Permits DHCS to implement this bill by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking any further regulatory action.

Comments

Author's statement. According to the author, this bill requires a health plan and health insurance policy issued, amended, or renewed on or after July 1, 2024, to provide coverage for biomarker testing. Precision medicine improves patient outcomes by using their own genes or proteins (biomarkers) to prevent, diagnose, or treat diseases. Biomarker testing can be performed for cancer, including prostate, ovarian, colorectal, breast, and lung cancers; Alzheimer's disease; rheumatoid arthritis, type 2 diabetes; and other conditions. Timely care is vital for patients to treat their disease, slow disease recurrence or progression, and improve their quality of life. Targeted treatments will improve survival rates and reduce costs by connecting patients to the most effective treatments. This bill improves access to biomarker testing, ensuring patients receive the right treatment at the right time.

California Health Benefits Review Program (CHBRP) analysis. AB 1996 (Thomson, Chapter 795, Statutes of 2002) requested the University of California to assess legislation proposing a mandated benefit or service and prepare a written analysis with relevant data on the medical, economic, and public health impacts of proposed health plan and health insurance benefit mandate legislation. CHBRP was created in response to AB 1996, and conducted an abbreviated review of SB 912 (Limón, 2022), which is similar to this bill. Key findings include:

Background. According to CHBRP, biomarker is a characteristic that can be measured to specify normal or abnormal health processes or to indicate a condition or disease. These measurements can also be used to determine the effects a treatment is having on a patient. Biomarker tests are a way to measure and quantify biomarkers. Nonphysiologic tests are often done in a laboratory using samples of blood, tissue, or other clinical samples to quantify and evaluate the biomarker. In recent years, biomarker testing has been used in the expansion of precision medicine, an approach in which treatment and prevention are based on patients' genetic, environmental, and lifestyle factors rather than a single approach to a disease or condition for all patients. Biomarkers can be tested a variety of ways, including through common blood biomarker tests, individually (single-analyte tests), within a multiplex panel test, or as part of whole genome or exome sequencing. Biomarker testing can be performed for cancer including prostate, ovarian, colorectal, breast, and lung cancers; Alzheimer's disease; rheumatoid arthritis; type 2 diabetes; and other conditions. Additionally, many biomarkers may be associated with several diseases and conditions. Performing biomarker testing for cancer, for example, enables a provider to accurately match the therapy to an individual patient by focusing on treatments most likely to be effective, and decreases treatment harms by avoiding treatments that are unlikely to result in improvement (e.g., chemotherapy), or may result in an adverse reaction. Biomarker tests can be used across the continuum of care for many diseases and conditions for the purposes of screening asymptomatic individuals, determining the presence of disease (diagnosis), estimating the risk or time to clinical outcomes (prognosis), identifying the likelihood of a patient to benefit from certain therapies (predictive) and to experience therapy-related risks (pharmacogenomics), or for treatment monitoring purposes.

Related/Prior Legislation

SB 912 (Limon, 2022) would have required health plan contracts, disability insurance policies, and Medi-Cal to cover biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring if the test is supported by medical and scientific evidence, as specified. SB 912 was vetoed by the Governor, who stated:

> This bill would require health care service plans, including the Medi-Cal program, to provide coverage for biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of a person's disease or condition, as long as the test is supported by medical and scientific evidence, as defined in the bill.

While I appreciate the author's efforts to provide biomarker testing coverage, these services are already covered by Medi-Cal. Furthermore, biomarker testing is valuable when it can inform a condition's diagnosis and treatment, but this bill would require Medi-Cal to cover unnecessary testing that may not inform the best treatment to care for the beneficiary.

For example, this bill would require the Department of Health Care Services (Department) to cover biomarker testing supported by local coverage determinations, which can contradict each other, and tests supported by "nationally recognized clinical practice guidelines and consensus statements," which may not be evidenced-based. In contrast, Medi-Cal policy is based upon the gold standard of guidelines with standards set by the National Academy of Medicine.

This bill would establish broad and contradictory coverage requirements that go beyond the Department's evidence-based policies, which would unnecessarily increase costs without increasing the quality of coverage. I believe the Department should retain its current flexibility to establish evidence-based policies in light of the dynamic and changing nature of medicine.

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

According to the Assembly Appropriations Committee,

- CDI estimates this bill will cost $22,000 in fiscal year (FY) 2024-25 to review forms submitted by insurers (Insurance Fund).

- DMHC estimates additional workload to address an increase in consumer complaints; revise survey methodology and compliance monitoring tools, including reviewing health plans’ utilization management processes and providing guidance to plans; and increases in consulting and technology costs of approximately $431,000 in FY 2023-24; $791,000 in FY 2024-25; $1.2 million in FY 2025-26; and $1.5 million in FY 2026-27; and annually thereafter (Managed Care Fund).

- Costs of an unknown amount to DHCS for Medi-Cal (General Fund, federal funds). CHBRP analyzed a similar bill in 2022, and estimated no additional costs to DHCS, as full-scope Medi-Cal currently provides coverage for biomarker testing as required by this bill.

- The CHBRP analysis noted health plans and insurers currently provide coverage for biomarker testing as required by this bill. However, as new therapies develop, health care expenditures may increase due to increased utilization of high-cost medications. Costs could also be avoided, to the extent that biomarker testing enables safer, more effective interventions. If this bill significantly expands access to biomarker testing, it might increase costs of health coverage, but could also decrease costs if it results in more effective, targeted care.

SUPPORT: (Verified 9/7/23)

American Cancer Society Cancer Action Network (co-source)
University of California (co-source)
Advanced Medical Technology Association
Alliance for Patient Access
American Kidney Fund
Association of Regional Center Agencies
Biocom California
Biogen
Biotechnology Innovation Organization
California Academy of Family Physicians
California Chronic Care Coalition
California Clinical Laboratories Association
California Life Sciences
California Manufacturers & Technology Association
California Medical Association
Children's Specialty Care Coalition
City of Hope National Medical Center
Crohn's and Colitis Foundation
GSK
International Foundation for Autoimmune and Inflammatory Arthritis
MiOra
Natera
The Latino Cancer Institute
The Michael J. Fox Foundation for Parkinson's Research

OPPOSITION: (Verified 9/7/23)

None received

ARGUMENTS IN SUPPORT: According to the American Cancer Society Cancer Action Network and University of California, co-sponsors of this bill,

cancer biomarkers can include molecules like proteins or genetic alterations such as mutations, rearrangements, or fusions. Testing patients for specific biomarkers is integral to precision medicine in cancer care but, despite evidence pointing to the clinical benefits associated with biomarker testing, routine clinical use does not always follow, and testing rates lag behind clinical guideline recommendations. In a 2021 survey, 66% of oncology providers reported that insurance coverage for biomarker testing is a significant or moderate barrier to appropriate biomarker testing. Insurance coverage for biomarker testing is failing to keep pace with innovations and advancements in treatment. This bill will require state-regulated insurance plans, including Medi-Cal, to cover comprehensive biomarker testing when supported by medical and scientific evidence, including nationally recognized clinical practice guidelines. Timely access to appropriate biomarker testing can help achieve better health outcomes, improve quality of life and reduce costs by connecting patients to the most effective treatment for their cancer. The Crohn's and Colitis Foundation write procedures, like colonoscopy, help diagnose and evaluate irritable bowel syndrome, which is very helpful, but also invasive, expensive, and carries some risk; and fail to answer all questions. As irritable bowel syndrome biomarkers become available, coverage should not be a barrier for patients to receive biomarker testing when being treated.

SUPPORT IF AMENDED: The Protection of the Education Rights of Kids has a support if amended position requesting amendments to include protections for information collected, including but not limited to sharing information with third parties or for any other type of use, sharing, of genetic sequencing or medical information detected from the test results.

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
9/13/23 20:57:10

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

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

UNFINISHED BUSINESS

Bill No: SB 500
Author: McGuire (D)
Amended: 9/1/23
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 9-0, 4/25/23
AYES: Min, Allen, Dahle, Eggman, Grove, Hurtado, Laird, Limón, Padilla
NO VOTE RECORDED: Seyarto, Stern

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Wahab, Wiener
NO VOTE RECORDED: Seyarto

SENATE FLOOR: 38-0, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Nguyen, Seyarto

ASSEMBLY FLOOR: Not available

SUBJECT: Fish and wildlife

SOURCE: Author

DIGEST: This bill enacts or amends multiple provisions of law relating to commercial fishing, including, among others, increasing the base fee for a sea urchin diving permit to raise revenue for the California Sea Urchin Commission, requiring the California Department of Fish and Wildlife to adopt regulations regarding the marking and color coding of lines used in certain state fisheries, and extending the sunset on the risk assessment and mitigation program to limit marine

life entanglement from the Dungeness crab fishery, among other fishery-related items.

Assembly Amendments add conforming changes to avoid chaptering out technical clean-up in an Assembly committee bill; extend the sunset on the risk assessment and mitigation program; clarify certain live bait handling and reporting requirements; and update statute to address the use of electronic fish tickets, as provided.

ANALYSIS:

Existing law:

1) Establishes the California Department of Fish and Wildlife (CDFW) and the California Fish and Game Commission (Fish and Game Commission) in the California Natural Resources Agency.

   In general, the Fish and Game Commission sets regulations that CDFW implements and enforces. CDFW also provides data and expertise to inform the Fish and Game Commission's decision-making process.

2) Establishes the California Sea Urchin Commission (Sea Urchin Commission) in state government and vests the Sea Urchin Commission with various powers and duties, including an assessment for each pound of sea urchin landed or delivered by divers to handlers in the state. (Food and Agricultural Code (FAC) §§79000 *et seq*., §79040, §79075, §79120)

   a) The current maximum landing fee per pound of sea urchin is three cents.

3) Authorizes the Sea Urchin Commission to consult and enter into agreements with the Director of the CDFW, if necessary and appropriate, to assist in the administration and enforcement of certain sea urchin provisions, such as collecting assessments. If an agreement is reached, the Sea Urchin Commission is required to reimburse the reasonable costs of CDFW. (FAC §79132)

4) Requires every trap or string of traps to be marked with a buoy. Requires CDFW to implement regulations by January 1, 2020, requiring standardized gear marking for those fisheries in which the department determines it is appropriate. (Fish and Game Code (FGC) §9005)

5) Establishes requirements for the payment of landing fees for any person who is a licensed fish receiver, wholesaler or a processer or who receives fish from

commercial fisherman, and any commercial fisherman who sells fish to any person who is not a licensed fish received with certain exemptions, as provided. (FGC §8041)

6) Requires CDFW by November 1, 2020, to adopt regulations establishing criteria and protocols for the risk assessment and mitigation program (RAMP) to evaluate and response to the potential risk of marine life entanglement. (FGC §8276.1) See Title 14, California Code of Regulations, Section 132.8 "Risk Assessment Mitigation Program: Commercial Dungeness Crab Fishery" for the regulations.

7) Defines "aquaculture" as a form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water. (FGC §17)

8) Requires the owner of an aquaculture facility to register certain information with CDFW by March 1st of each year, and requires CDFW to impose prescribed fees for registration and renewal. (FGC §15004, §15101)

9) Requires, in addition to the registration and renewal fees, a surcharge fee to be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed $25,000. (FGC §15103)

10) Increases, until January 1, 2024, registration, renewal, surcharge, and penalty fees, as provided. (FGC §15004, §15103, §15104)

11) Requires CDFW, at least once every five years, to analyze the fees and taxes authorized for the aquaculture program to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the program. (FGC §15004)

This bill enacts or amends multiple provisions of law relating to commercial fishing, including, among others, increasing the base fee for a sea urchin diving permit to raise revenue for the California Sea Urchin Commission, requiring CDFW to adopt regulations regarding the marking and color coding of lines used in certain state fisheries, and extending the sunset on the risk assessment and mitigation program to limit marine life entanglement from the Dungeness crab fishery, among other fishery-related items.

Specifically, this bill:

1) Requires the Fish and Game Commission to adopt regulations related to commercial sea urchin diving permits and the vessels used for commercial sea urchin diving in order to better manage the number of permits issued.

2) Increases the base fee for a sea urchin diving permit to $530 from $330. Require $200 of the fee to be distributed by CDFW to the California Sea Urchin Commission for use in meeting its mission, as provided. Authorizes the California Sea Urchin Commission to revoke the $200 portion of the fee before February 1st of each calendar year.

3) Authorizes the California Sea Urchin Commission to enter into an agreement with the CDFW Director for CDFW's expenses associated with the distribution of the $200, and requires reimbursement of CDFW's expenses if an agreement is established for its reasonable administrative costs, as provided.

4) Requires CDFW to adopt regulations regarding the marking and color coding of lines used in state managed fisheries.

5) Extends increased registration, renewal, surcharge, and penalty fees relating to aquaculture until January 1, 2025.

6) Clarifies requirements for the handling and reporting of fish caught for use as live bait. These include, for example:

   a) Providing a licensure exception for a person who purchases, sells, takes, or receives live marine fish for use exclusively as live bait, that is not brought ashore, and who has registered as a live bait dealer with CDFW.

   b) Prohibiting the receipt, purchase, or transfer of fish from occurring at sea or from vessel to vessel, except for certain live marine fish used as bait or as prescribed by regulation.

   c) Authorizing CDFW to develop rules and regulations to establish methods for the reporting of "accurate weight" of marine fish used as live bait that are not landed; and the prohibition on transferring fish at sea except for live marine fish used as bait.

   d) Exempting the live bait fishery from providing price information on electronic landing receipts.

7) Substitutes outdated "landing receipt" references with "electronic fish tickets," where applicable, as provided. Establishes requirements for when electronic fish tickets have to be completed, as provided.

8) Deletes obsolete provisions of the RAMP program, and extends the sunset to January 1, 2030, as provided.

9) Makes conforming changes to law to avoid chaptering out any of the provisions of AB 1760 (Committee on Water, Parks, and Wildlife, Chapter 132, Statutes of 2023).

Background

The Sea Urchin Commission

The Sea Urchin Commission, a state marketing program, was founded in 2004. Sea Urchin Commission activities include undertaking industry initiatives, conducting public outreach and educational programs, developing new or expanding existing markets and advocating for the urchin fishery, among other things.

Sea urchin landings have decreased from 14 million pounds in 2013 to just under three million pounds in 2022 due to the sustained kelp loss along the coast, among other reasons. A three cents per landed pound of urchin assessment supports the Sea Urchin Commission.

Line marking

Certain fisheries, such as for Dungeness crab, use traps or similar fixed equipment to take fish. Traps can become lost due to storms or other reasons. Standardized marking of lines can help to identify the fishery that is the source of marine detritus when the required identifying tags are lost and which fishery is the source of equipment that is entangling marine mammals.

Live bait

According to the Assembly Water, Parks, and Wildlife Committee, the live bait fishery provides bait fish for recreational and commercial fisheries in California and is primarily used by commercial passenger fishing vessels and private fishing vessels, with some live bait also sold to commercial fishing operations. Historically, existing law was assumed to exempt live bait businesses from obtaining a license or reporting live bait catch. However, in 2019, Pacific sardine, a key species in the live bait fishery, was listed as overfished by the National Marine

Fisheries Service. Allowing the live bait fishery to continue to target sardine without risking continued overfishing required total catch accounting and all live bait businesses to report catch. In view of this, existing law was determined to not provide the previously assumed blanket exemption for licensure and reporting. Since live bait operations are required to obtain a fish receivers license, they do not qualify for the exemption from landing fees, which they were intended to be exempted from.

Landing receipts

Reporting requirements include the specification of "price" information when fish are offloaded. In many cases, live bait is not purchased from the commercial fishing vessel as normally occurs in other fisheries. As a result, a traditional "price per pound" is not available at the time of transfer from the commercial fishing vessel and may never be correct or applicable.

Additionally, the historic use of paper landing receipts was prohibited via regulation in 2019 and replaced by the use of electronic fish tickets.

Transfer at sea

Current statute unintentionally allows for transfer at sea of marine resources other than live bait without an accurate weight. Existing law requires that certain information be included when reporting landings, such as accurate weight. However, transfer of fish from vessel to vessel at sea precludes accurate weight accounting and current statute does not clearly prohibit such transfers.

California Aquaculture Program

Aquaculture in California, according to information available from CDFW, is very diverse and includes a variety of species raised in different environments. It ranges from the raising of freshwater fish or seaweeds in tanks on land to the cultivation of oysters in bay tidelands. Many of the species raised – oysters, mussels, clams, abalone and seaweed -- are produced for high-value niche markets. For example, oysters available by mail from one aquaculturist are on the order of $2.15 - $3.00 each. From 2020 – 2022 there were about 110 registered aquaculturists in the state, and most commercial marine aquaculture occurs in the state’s estuaries and bays.

A late 2022 aquaculture report showed a 78% shortfall in resources for the California Aquaculture Program to meet its “mission level” of service, including leasing-associated expenses. The program operates at a deficit, and collected fees,

including the surcharge and relatively increased fees, do not come close to covering CDFW's and the Fish and Game Commission's actual costs.

Risk Assessment and Mitigation Program (RAMP)

Due to high numbers of entangled whales at various times in the last decade, active steps have been taken to reduce the potential incidence of entanglement in fixed gear, including Dungeness crab traps. For example, since September 2015, the California Dungeness Crab Fishing Gear Working Group (Working Group) has been taking steps to actively identify and be responsive to elevated risks of whale entanglements in California Dungeness crab fishing gear. The Working Group – a coalition of commercial and recreational fishermen, environmental organization representatives, members of the whale entanglements response network, and state and federal agencies – developed the RAMP to assess circumstances where entanglement risks are elevated and identify possible management measures for DFW's consideration. RAMP was subsequently incorporated into regulation.

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

According to the Assembly Appropriations Committee:

1) Sea urchin permits [Fish and Game Preservation Fund (FGPF)]: CDFW notes an increase in permit fees would have a minor fiscal impact to the department, and the workload associated with updating the fees is expected to be minor and absorbable within existing staff resources and processes. CDFW notes providing the Sea Urchin Commission with the revenue generated by the $200 fee increase for each sea urchin diving permit issued would require a contract between the Sea Urchin Commission and CDFW to transfer the newly generated revenue. CDFW notes the initial contract establishment and execution would be absorbable. However, CDFW estimates an annual cost of approximately $5,000 to manage the contract and provide the services outlined in its scope of work (such as receiving, transferring, and tracking revenue, performing required audits, etc.) Finally, CDFW notes the costs and revenues associated with implementing a new sea urchin permit are unknown and would be identified during a rulemaking process through the Commission.

2) Line marking (FGPF): Costs of an unknown, but potentially significant, amount for DFW to develop a line marking program, including staff time to develop rulemakings, stakeholder meetings, outreach to affected individuals, coordination with line manufacturers, consultation with law enforcement personnel throughout program development and implementation, and other tasks. CDFW notes, given the scope of fisheries affected by this bill, it will

likely use a phased approach spanning several years to implement this program in its entirety.

3) Aquaculture fees extension (FGPF): DFW notes failure to enact the various fee sunset extensions in this bill would result in CDFW forgoing approximately $19,400 annually, just under 10% of program revenues.

4) Live bait fishery (FGPF): Reduced fish receiver license sales (approximately $6,000 per year) and landing fees (approximately $10,000 per year) resulting in a total annual revenue loss of approximately $16,000.

5) Department of Finance has an oppose position on this bill, because it creates unknown, but potentially significant, cost pressure on the FGPF, which is currently operating at a structural deficit.

6) In fiscal year (FY) 2023-24, the RAMP program is funded at $829,000 (Environmental License Plate Fund and General Fund), which supports five staff who support RAMP activities. Two of the five positions were funded by a FY 2018-19 sustainable fisheries budget change proposal (BCP) (ongoing funding) and three of the five were funded by a fiscal year 2022-23 Whale and Sea Turtle Safe Fisheries Initiative BCP, through FY 2024-25. This bill extends the RAMP program to 2030, meaning a portion of the funding (three of the five positions) will likely need to be reauthorized and funded starting in FY 2025-26

SUPPORT: (Verified 9/8/23)

California Aquaculture Association
California Fisheries and Seafood Institute
California Sea Urchin Commission
Everingham Bros. Bait Company
Marina del Rey Bait Company, Inc.
The Nature Conservancy

OPPOSITION: (Verified 9/8/23)

Department of Finance

ARGUMENTS IN SUPPORT: According to the author, “California takes great pride in its fishermen and all the hard work they put into boosting local economies and putting healthy, fresh food on our plates. These fishermen risk their lives every day doing their jobs in dangerous and even life-threatening conditions. It is time to promote safety, code consistency, and opportunity. The Joint Committees on

Fisheries and Aquaculture works with the tens of thousands of hard-working men and women of the Golden State's seafood industry – worth $9 billion – and advances an omnibus bill every few years to remedy issues and challenges large and small. [This bill], the Fisheries Omnibus Bill, addresses issues related to fisheries across the Golden State."

ARGUMENTS IN OPPOSITION: The Department of Finance writes, "Finance is opposed to this bill because it creates unknown, but potentially significant cost pressure on the Fish and Game Preservation Fund, which is currently operating at a structural deficit."

Prepared by: Katharine Moore / N.R. & W. / (916) 651-4116
9/13/23 20:41:57

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

SENATE RULES COMMITTEE SB 520
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 520
Author: Seyarto (R)
Amended: 9/1/23
Vote: 21- Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/3/23
AYES: Caballero, Seyarto, Dahle, Durazo, Glazer, Skinner, Wiener
NO VOTE RECORDED: Blakespear

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Property taxation: homeowners' exemption

SOURCE: Author

DIGEST: This bill ensures that the homeowners' exemption from property tax continues to apply if the taxpayer is not occupying their home because they are confined to a hospital or other care facility

Assembly Amendments remove the disclaimer that the state shall not reimburse any property tax revenue losses.

ANALYSIS:

Existing law:

1) Provides that all property is taxable unless explicitly exempted by the Constitution or federal law (Article XIII, Section One)

2) Exempts $7,000 in taxable value when the home is the principal place of residence of the owner on January 1st of the year the exemption is claimed, unless the taxpayer claims another exemption (California Constitution, Article XIII, Section 3).

3) Allows the Legislature to partially or wholly exempt from property tax the value of a disabled veteran's principal place of residence if the veteran has lost two or more limbs, is totally blind, or is totally disabled as a result of a service-connected injury, so long as the taxpayer served in the United States Army, Navy, Air Force, Marine Corps, and been discharged under conditions other than dishonorable (California Constitution, Article XIII, Section Four).

4) Precludes a taxpayer from claiming a homeowners' exemption for a property that is rented, vacant, under construction on the lien date, or that is a vacation or secondary home.

5) Provides that even if the property is vacant or under construction, the assessor cannot revoke a taxpayer's homeowners' exemption when they do not occupy the dwelling (SB 1494, Committee on Revenue and Taxation, Chapter 654, Statutes of 2010), including:

   a) A dwelling that was totally destroyed in a disaster for which the Governor proclaimed a state of emergency, that previously qualified for the exemption and that has not changed ownership, provided the person intends to reconstruct a dwelling on the property and occupy the dwelling as their principal place of residence when it is possible to do so.

   b) When the dwelling is damaged in a misfortune or calamity, the person's absence from the dwelling is temporary and the person intends to return to the dwelling when possible to do so. However, if the dwelling is destroyed, the exemption is not applicable until the structure has been replaced and occupied as a dwelling.

6) Deems property to be the disabled veteran's principal place of residence, and therefore still eligible for the exemption, when the veteran is confined to a hospital or other care facility, if that property would be that veteran's principal

place of residence were it not for their confinement to a hospital or other care facility, provided that the residence is not rented or leased to a third party.

This bill:

1) Deems that if a person receiving the homeowners' exemption from property tax is not occupying their home because they are confined to a hospital or other care facility, their residence is not vacant and the assessor cannot revoke their exemption, provided:

   a) The person would occupy the dwelling if they were not confined to the hospital or other care facility.

   b) The person intends to return to the dwelling when possible to do so.

   c) The dwelling is not rented or leased to an unrelated person, as defined by reference to the Internal Revenue Code.

2) Makes technical and conforming changes.

Background

The homeowner's exemption provides a modest $7,000 reduction in taxable value ($70 at a 1% tax rate) when the home is the principal place of residence of the owner on January 1st of the year the exemption is claimed. The property must be the taxpayer's true, fixed and permanent home, and principal establishment to which they intend to return if absent. Assessors use vehicle registration, voter registration, bank accounts, and state income tax filings to determine whether a property qualifies. Once granted, the exemption continues until the taxpayer notifies the assessor or ownership changes. Assessors are unlikely to commit many enforcement resources to enforce a $70 benefit; however, under Proposition 19 (2020), intergenerational change in ownership exclusions only apply when the home qualifies for an exemption before the transfer, and the transferee claims the homeowners' or disabled veterans' exemption within one year after the purchase or transfer. SB 520 preserves the transferor's status for the homeowners' exemption if they are confined to a hospital or care facility, which ensures that the exclusion can still apply, which could save the transferee thousands in taxes.

Current Board of Equalization (BOE) Letter to Assessors 82/50 states that a homeowner can maintain their exemption if away from their residence so long as it's not rented out. The Letter also states that an absence for more than one year would raise considerable doubt that this is the principal residence. SB 520 provides clear statutory protection for those whose confinement to a hospital or

care facility lasts longer than a year, and that renting the property to a family member during the confinement period does not jeopardize the exemption

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

According to the Assembly Appropriations Committee:

- Property tax revenue loss of an indeterminable, but likely minor, amount. The BOE views this bill as clarifying whether a person is deemed to be occupying a dwelling. BOE staff does not have specific county data on the number of exemption claims denied because of a homeowner's time in a hospital or other care facility, but notes research generally indicates most people leave such facilities within one year. Although property tax is a local government revenue source, reductions in property tax revenues increase Proposition 98 General Fund (GF) spending by up to roughly 50% (the exact amount depends on the specific amount of the annual Proposition 98 guarantee).

- One-time costs of approximately $1,000 to BOE to advise county assessors and the public of this clarification, as BOE monitors claims granted under the homeowners' exemption (GF).

SUPPORT: (Verified 9/11/23)

Howard Jarvis Taxpayers Association

OPPOSITION: (Verified 9/11/23)

None received

ARGUMENTS IN SUPPORT: According to the author, "SB520 will simply clarify that being confined to a hospital or other care facility still qualifies an individual as occupying their principal dwelling, to remain qualified for their Constitutionally provided Homeowners' Property Tax Exemption."

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
9/13/23 20:41:55

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

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

UNFINISHED BUSINESS

Bill No: SB 531
Author: Ochoa Bogh (R)
Amended: 8/14/23
Vote: 27 - Urgency

PRIOR SENATE VOTES NOT RELEVANT

SENATE EDUCATION COMMITTEE: 4-0, 9/13/23 (Pursuant to Senate Rule 29.10)
AYES: Newman, Ochoa Bogh, Cortese, Smallwood-Cuevas
NO VOTE RECORDED: Glazer, McGuire, Wilk

ASSEMBLY FLOOR: 78-0, 9/11/23 - See last page for vote

SUBJECT: Pupil safety: local educational agency contractors: background checks

SOURCE: Author

DIGEST: This bill exempts an entity that partners with a local educational agency (LEA) to provide student work experience from the requirement to have a valid criminal background check for all employees, as specified. This bill is an urgency measure.

Assembly Amendments exempt an entity that partners with an LEA to provide student work experience from the requirement to have a valid criminal background check for all employees, as specified.

ANALYSIS:

Existing law:

1) Requires any entity that has a contract with an LEA to ensure that any employee who interacts with students, outside of the immediate supervision and control of the student's parent, guardian, or school employee, have a valid

criminal records summary. Requires that the contracting entity immediately provide any subsequent arrest and conviction information it receives regarding those employees to any LEA that it is contracting with. (Education Code (EC) § 45125.1)

2) Prohibits a school district from employing any person who has been convicted of a violent or serious felony, and prohibits a school district from retaining a current classified employee who is a temporary, substitute, or a probationary employee who has not attained permanent status, if they have been convicted of a violent or serious felony. (EC § 45122.1)

3) Finds and declares that Project WorkAbility is a true partnership established at the state level through nonfinancial interagency agreements between the California Department of Education (CDE), the Department of Employment Development (EED), and the Department of Rehabilitation (DOR), and has elevated awareness in the private sector of the employment potential of individuals with exceptional needs, and focuses its efforts in developing careers for these youth, and preventing needless economic and social dependency on state and community agencies and resources. (EC § 56470)

4) Authorizes the population served by WorkAbility projects to include secondary students with disabilities, adults with disabilities and other individuals who experience barriers to successful completion of school. (EC § 56472)

5) Specifies that all laws or rules applicable to minors in employment relationships are applicable to students enrolled in work experience education courses, including the employment of students in part-time jobs selected or approved as having educational value and coordinated by school employees. (EC § 51763 and 51764)

6) Authorizes the governing board of a school district that establishes and supervises a work experience education program in which students with intellectual disabilities are employed in part-time jobs to use funds derived from any source to pay the wages of the students employed, to the extent permissible by law or regulation. (EC § 51765)

7) Authorizes LEAs to provide students with work-based learning opportunities through partnership academies, regional occupational programs, work experience education, community classrooms, cooperative career technical education (CTE) programs, and job shadowing experiences. Defines "work-based learning" as an educational approach or instructional methodology that uses the workplace or real work to provide pupils with the knowledge and

skills that will help them connect school experiences to real-life work activities and future career opportunities. States that when feasible, work-based learning should be an integral part of a more comprehensive program that integrates academic courses and career technical education. (EC § 51760.1)

8) Defines a "community classroom" as an instructional methodology which utilizes unpaid on-the-job training experiences at business, industry, and public agency sites to assist students in acquiring those competencies necessary to acquire entry-level employment, and so concurrent, formalized classroom instruction can be extended. Requires the community classroom teacher to make at least one visitation every 3 weeks to consult with the management of the community classroom, observe students at the training station, provide instruction, ensure that student acquisition of competencies identified in the individualized training plan is occurring, and observe the student engaged in the job training experiences. (California Code of Regulations (CCR), Title 5, Sections 10080 – 10088)

9) Requires that all laws or rules applicable to minors in employment relationships be applicable to students enrolled in work experience education courses. (EC § 51763)

10) Prohibits any minor under the age of 16 from being employed or permitted to work with specified machinery in a workshop or factory or in other hazardous occupations as defined. (Labor Code (LAB) 1292, 1293, 1294)

11) Specifies that Sections 1292, 1293, and 1294 of the Labor Code do not apply to specified work experience programs if all of the following occur:

    a) The work experience coordinator determines that the students have been sufficiently trained in the employment or work otherwise prohibited;

    b) Parental approval is obtained; and

    c) The principal or counselor of the student has determined that the progress of the student toward graduation will not be impaired. (EC 51769.5)

This bill:

1) Requires that an employee of an entity having a contract with an LEA to offer work experience opportunities for students, including as part a pupil's individualized education program (IEP), meet the following conditions in order to be exempt from the requirement to have a valid criminal records summary for all of their employees:

a) At least one supervisor in the workplace who has direct contact with the student and has been designated by the employer as the employee of record who is responsible for the safety of the pupil, has a valid criminal records summary, as specified;

b) A staff representative of the LEA makes at least one visitation every three weeks to consult with the student's workplace liaison, observe the student at the workplace, and check in with the student to ensure their health, safety, and welfare, by addressing any concerns the student has raised; and

c) The parent or guardian of the student has signed a consent form regarding the student's work placement, attesting that they understand the duties assigned to the student and the nature of the workplace environment.

2) Requires an LEA contracting with a contractor for services as part of a student's independent study program, where the student is under the immediate supervision of their parent or guardian during the provision of those services, to verify completion of a valid criminal background check for all employees of the contractor who interact with the student, or to ensure that the parent or guardian signs a consent form attesting that they understand that the person employed by the contractor has not completed a valid criminal background check.

Comments

1) *Need for the bill.* According to the author, “Student safety remains a top priority, and SB 531 ensures there are necessary safeguards in place to protect students from potential harm at the workplace, while also ensuring access to professional development and vocational training in various career fields.

“Updating the requirements will encourage community business partners to continue contracting with LEAs in order to provide work training opportunities for high school students. Without this change, on-the-job work experience will only be available through traditional employment or internships that do not offer the same level of protection for students as contracted LEA work-based programs."

2) *Background check requirement expanded to contractors.* The Budget Act of 2021 requires that any entity contracting with an LEA ensure that any

employee who interacts with students, outside of the immediate supervision of a school employee or the student's parent or guardian, have a valid criminal records summary, and that any subsequent arrest and conviction information be provided to the LEA it is contracting with.

Prior to the enactment of this provision, criminal background checks were required for entities contracting with LEAs only for janitorial services, schoolsite administrative services, grounds and landscape maintenance, student transportation, and schoolsite food services. The 2021 Budget Act expanded this requirement to any contract involving individuals interacting with students, whether in-person or online.

3) *Unintended consequences of background check requirement.* As the requirement for all employees of an entity holding a contract with an LEA to have a valid criminal background check went into effect, student work experience opportunities have been negatively impacted. Many employers who previously had hosted students for work experience and WorkAbility were unable or unwilling to comply with the requirement that all of their employees who might have contact with the student(s) be fingerprinted.

   In addition, LEAs contracting with entities for the provision of educational services as part of an independent study program for pupils may not be in compliance with the fingerprinting requirement as they are presuming that the pupil is under the immediate control and supervision of the parent or guardian. As this may not be the case in every circumstance, there is a need to ensure parents or guardians are made aware that the employees of the entity that their pupils are interacting with may not have a valid criminal records summary, by signing an informed consent.

4) *Barriers to complying with the fingerprinting requirement.* LEAs and the CDE have identified some of the challenges identified by outside entities in complying with the fingerprinting requirement for all of their staff who may have contact with students. These include the following:

   a) Workplaces cannot bear the burden of the cost associated with staff fingerprinting of any staff who interact with students, including the fingerprinting service cost, travel cost, and extra staff time;

   b) Workplaces cannot comfortably ensure that students will only interact with those staff who have been cleared;

c) Complications of staff turnover and ensuring any changes in staff comply with this requirement;

d) Lack of infrastructure or capacity to maintain records of those cleared and communicate subsequent arrest and conviction information;

e) Large employers (e.g. retail, hospitals, hotels) may employ thousands of workers and experience high turnover of staff; and

f) Some employers (e.g. agriculture) may have workers who are undocumented.

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

According to the Assembly Appropriations Committee:

Ongoing Proposition 98 General Fund costs, of an unknown but potentially significant amount, to LEAs to dispatch a staff person to each student's workplace every three weeks to consult with the student's workplace liaison, observe the student at the workplace and check-in with the student to ensure the student's health, safety and welfare. Students participating in workplace experience opportunities typically are in high school, but the total number of students participating in these opportunities statewide is unknown.

If the Commission on State Mandates determines the bill's requirements to be a reimbursable state mandate, the state must to reimburse these costs to LEAs or provide funding through the K-12 Mandate Block Grant.

SUPPORT: (Verified 9/13/23)

Association of California School Administrators
California County Superintendents
CAROCP: the Association of Career and College Readiness Organizations
College and Career Advantage
Eden Area Regional Occupational Program
First Place for Youth
Inner City Industry
Mountain Desert Career Pathways Joint Powers Authority
North Orange County ROP
Riverside County Office of Education
San Bernardino County District Advocates for Better Schools

San Diego Unified School District
Tri-valley Regional Occupational Program
Valley ROP

OPPOSITION: (Verified 9/13/23)

An individual

ARGUMENTS IN SUPPORT: CAROCP: the Association of Career and College Readiness Organizations, among others writes, "One of the many ways that public education supports California's students is through critical work based learning incorporated into CTE pathways and WorkAbility programs. It offers skills training and career exploration in addition to personal development and enrichment, all of which are integral components of our successful programs."

"Recent trailer bill language changed fingerprinting and associated criminal history reporting requirements for entities that contract with LEAs, including employers that have partnered with schools for years to provide workplace-driven learning. This change was well-intended and commendable in concept, but the stricter requirements on contracted CTE and WorkAbility employers made a significant impact on the availability of work experience opportunities for students. In sum, current law can be interpreted to require employers to provide criminal history information for all of their employees to the LEA, regardless of their interaction or even workplace presence in relation to a student.

"Because of the burden and cost associated with the increased fingerprinting requirement, many employers are choosing to forego partnering with schools rather than navigating the new obstacles, including submitting their employees' criminal history information to an LEA. The work opportunities are closing for our CTE students and students with disabilities. Our students with disabilities that have relied on WorkAbility programs to help with the transition from school to work and independent living and thrived in job placements such as grocery stores, fast food restaurants, and warehouses will have fewer possibilities.

"SB 531 is a reasonable solution that maintains student safety as a priority. The well-being of our students will be upheld through safeguards such as regular job site visits by school staff and applying the fingerprinting requirement to supervisors who work directly with students. We also believe that this would complement legislative efforts in recent years that ensures criminal history is not a barrier to employment prospects, and respects current employee data privacy.

“CTE pathways and WorkAbility programs have enriched students' experiences for decades. SB 531 is sorely needed to preserve the work experience component that is integral to these programs' value so that students may graduate with the skills needed to pursue a career and find success in their livelihood."

ASSEMBLY FLOOR: 78-0, 9/11/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Rendon, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Ramos, Reyes

Prepared by: Ian Johnson / ED. / (916) 651-4105
9/13/23 19:36:09

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

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

UNFINISHED BUSINESS

Bill No: SB 539
Author: Stern (D)
Amended: 6/14/23
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 10-0, 3/28/23
AYES: Min, Seyarto, Allen, Becker, Eggman, Grove, Hurtado, Laird, Limón, Padilla
NO VOTE RECORDED: Dahle

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Sepulveda Basin: planning process: nature-based solutions

SOURCE: Author

DIGEST: This bill directs the Department of Water Resources and the Santa Monica Mountains Conservancy to provide assistance the City of Los Angeles and the U.S. Army Corps of Engineers, to the extent requested, in order to integrate nature-based climate solutions into the planning process for the Sepulveda Basin.

Assembly Amendments recast "nature-based solutions" as "nature-based climate solutions," revise the definition of this term, revise and add new findings and declarations, and make other conforming changes.

ANALYSIS:

Existing law:

1) Establishes the Department of Water Resources (DWR) in the California Natural Resources Agency (CNRA) under the control of a director who is appointed by the Governor, and confirmed by the Senate. *Water Code section (§) 120.*

2) Establishes, under the Santa Monica Mountains Conservancy Act, the Santa Monica Mountains Conservancy (SMMC) in CNRA, composed of nine voting members and three ex officio members. *Public Resources Code (PRC) §33200.*

3) Establishes the Upper Los Angeles River and Tributaries Working Group within SMMC to develop, through watershed-based planning methods and community engagement, a revitalization plan for the Upper Los Angeles River and its specified tributaries. *PRC §33220.*

This bill directs DWR and SMMC to provide assistance the City of Los Angeles and the U.S. Army Corps of Engineers, to the extent requested, in order to integrate nature-based climate solutions into the planning process for the Sepulveda Basin. Further, this bill:

1) Defines terms as follows:

    a) "Nature-based climate solutions" means activities, such as restoration, conservation, and land management actions, that provide protection from climate impacts and increase net carbon sequestration or reduce greenhouse gas emissions in natural and working lands.
    b) "Sepulveda Basin" means the approximately 2,000 acres of land owned and operated by the federal government as a flood management facility, north of Highway 101, west of Route 405, south of Victory Boulevard, and east of White Oak Avenue.

2) Makes a series of findings and declarations, including:

    a) It is in the state's interest to ensure that actions and resources support restoration of the Sepulveda Basin in a manner consistent with state policies and priorities, as specified.

b) The necessity of a special statute because of the unique circumstances of the location of the Sepulveda Basin near LA and its critical wildlife habitat for many native plants and animals.

Background

The Sepulveda Basin. Occupying a broad low place in the southern San Fernando Valley, the Sepulveda Basin (or "basin") comprises over 2,000 acres of open space at the confluence of the Los Angeles River (LA River) and its tributaries, including Bull Creek, Encino Creek, Woodley Creek, Haskell Creek, and some nearby springs. Nearly eight miles of the LA River passes through the basin, with three distinct segments, including a concrete channel, a natural channel bottom with concrete upper banks, and a natural channel bottom with riprap banks.

The basin is a biodiversity hotspot, providing refuge for several threatened and endangered species, as well as species of special concern. The basin hosts around 100 native plants and five main plant communities, including riparian forests, riparian shrublands, oak and walnut woodlands, coastal sage scrub, and aquatic plants. The basin also provides habit for over 200 species of birds, and some mammals, amphibians, reptiles, fish, and invertebrates, including snails, insects, and spiders. It is worth noting that although many species are known to inhabit the basin, the area's biodiversity is largely under-documented and understudied. No comprehensive study has been completed to fully document all species potentially within this landscape.

The basin is a remnant of a historically vast network of wetlands and riparian corridors once common across the Los Angeles Basin in southern California. This network included an abundance of springs, creeks, rivers, sloughs, vernal pools, and other wetlands. Historically, one of the basin's most important services was its reliable supply of potable water used by the Tongva and early European and American settlers. Further, this area provided critical wildlife habitats for a variety of native plants and animals.

Today, the U.S. Army Corps of Engineers, Los Angeles District (the Corps) owns 2,131.9 acres within the basin in fee for construction, operations, and maintenance of the Sepulveda Dam. While the primary purpose of the dam and reservoir is flood risk management – detaining and infiltrating storm water that would otherwise flood downstream communities – the project is also authorized for recreation. The Corps reserves 313 acres exclusively for operation of the dam, and leases 1,526.8 acres to the City of Los Angeles (LA) for recreational purposes,

although LA and the Corps are renegotiating this lease since it has expired. Other areas are leased for agriculture.

Nature-based solutions (NBS). These solutions encompass actions to protect, sustainably manage, and restore natural or modified ecosystems to provide multiple benefits, including to reduce greenhouse gas (GHG) emissions, sequester carbon, improve community and ecosystem resilience to climate change and natural disasters, improve air and water quality and water supply, provide habitat and recreational opportunities, and support ecosystem health. These solutions seek to work with ecosystems to tackle societal challenges, rather than relying solely on conventional engineered, or "grey" solutions, such as seawalls, levees, and irrigation infrastructure. By working with rather than against nature, communities can address the drivers and impacts of climate change, while protecting biodiversity and securing the flow of ecosystem services that support human well-being. Further, these solutions often come at a lower cost than traditional infrastructure.

The Yolo Bypass is an example of an NBS, one of the Corps' oldest, which uses wetlands to store floodwater and provide wildlife habitat. A system of weirs directs flood flows off the river onto the land, 59,000 acres of which can be inundated to relieve pressure in the system. Further, 16,000 acres in the Yolo Bypass Wildlife Area provide a haven for fish, waterfowl, shorebirds and wading birds, neotropical migratory birds, raptors, invertebrates, snakes, turtles, toads, and bats. The Corps chose this solution in part because a levees-only approach would have been insufficient.

Given the many benefits of NBS, the state has taken action repeatedly to promote these solutions. Many of these actions are documented in the bill's findings and declarations.

MOU between DWR and the Corps. In May 2021, DWR and the Corps agreed to collaborate on engineering with nature and integrated watershed management in California in an MOU. The MOU acknowledges that both parties have an interest in collaborating on nature-based engineering solutions to manage water, reduce flood risk, and restore ecosystems. The MOU identifies intended areas of collaboration, including working on common goals drawn from each agency's strategic planning documents. In addition, committee staff understands that DWR and the Corps recently signed another, similar MOU targeting southern California, but has not yet seen the document.

SMMC Upper LA River and Tributaries Revitalization Plan. AB 466 (Bocanegra, Chapter 341, Statutes of 2017) established an Upper LA River and Tributaries Working Group within SMMC and directed this group to develop a revitalization plan for the Upper LA River and its tributaries. SMMC released this plan in April 2020, which identified site-specific revitalization projects for over 250 locations throughout the river and tributary study area. The plan sought opportunities that provide nature-based watershed management, multiple benefits, open space, safe access, and reduced and managed flood risks, among others. The plan identified four opportunity areas within the Sepulveda Basin, including opportunities to expand habitat, greening, public access, and recreation.

Comments

While the Sepulveda Basin is the largest public open space in the San Fernando Valley, it can be difficult for the public to access on certain sides. In fact, for some neighboring communities like Van Nuys and Sherman Oaks, there are only 0.2 acres of park per 1,000 people, significantly below the Los Angeles County goal of four acres per 1,000 people. Also, the basin is located in an area that, on average, ranks in the 78th percentile in the state for environmental pollution burdens, according to CalEnviroScreen, with some areas in the 90th percentile. Further, certain areas within the basin are underutilized and could be enhanced to improve habitat, increase recreational opportunities, provide cultural spaces, and support the region's resilience to climate change and natural disasters.

The Corps manages the Sepulveda Basin via a Master Plan adopted in 2011 and may be in the process of updating this plan, although staff has not been able to confirm the latter. Further, LA is preparing a "vision plan" to provide a comprehensive design for the basin, including up to 12 selected public projects. This plan will help to determine the future of this area. Three projects are already under development, including constructing a new aquatic facility, a new athletic field, and a bike path.

According to the author, LA's proposals for the plan have come up against strong resistance from environmental and community advocates who argue that they are not effective in revitalizing or transforming the Sepulveda Basin into a resource for either the community or the region's climate adaptation and resilience. The author believes that involving DWR and SMMC could help to promote more community engagement and incorporate nature-based climate solutions that provide multiple benefits for people and the environment. The author hopes that with the state's help, the basin could become a "true Central Park for the San Fernando Valley."

It is worth noting that in its current form, this bill leaves it up to the Corps and LA to request assistance from DWR and SMMC. If neither requests assistance, nothing will happen. Further, it is unclear what the scope of assistance would be or the expected outcomes of that assistance. It could be as minimal as a phone call or a much more extensive process formalized via an interagency agreement among the agencies.

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

According to the Assembly Appropriations Committee:

Costs of up to $160,000 (General Fund, special funds, or bond funds) for DWR and SMMC to assist with the design of nature-based climate solutions. It is possible that neither LA nor USACE requests assistance, in which case this bill would have no associated state costs. If assistance were requested, actual costs would depend upon the scope and expected outcomes of such assistance, among other things.

SUPPORT: (Verified 9/13/23)

11:11 Projects
350 Conejo/ San Fernando Valley
Arroyo Seco Foundation
Associated Students, California State University, Northridge
Brown Girl Green
California Garden & Landscape History Society
California Urban Streams Partnership
Center for Biological Diversity
Central Avenue Church
Citizens Climate Lobby, San Fernando Valley
Citizens Climate Lobby, Santa Clarita Chapter
Citizens for Los Angeles Wildlife
Climate Action California
Climate Reality Project, California State Coalition
Climate Reality Project, San Fernando Valley Chapter
Dayenu: A Jewish Call to Climate Action
East Valley Indivisibles
Eco Chicos
Emerson Unitarian Universalist Church, Environmental Justice Ministry
Endangered Habitats League
Everyday Eco-Habits for Everyday People

Extinction Rebellion, Los Angeles
Extinction Rebellion, Youth Los Angeles
Food & Water Watch
Friends of the Los Angeles River
Glendale Environmental Coalition
Granada Hills High School, Blooming Buddies Garden Club
GreenHacks
Heal the Bay
Indivisible West Side Los Angeles
Interfaith Solidarity Network
It's Overdue
Liveable Communities Initiative
Los Angeles Audubon Society
Los Angeles Community Forestry Advisory Committee
Los Angeles Regional Climate Collaborative
Los Angeles River Public Art Project
Los Angeles Walks
Los Angeles Waterkeeper
Mission Hills Christian Church
North East Trees, Inc.
One Up Action
Reseda Neighborhood Council
Resource Conservation District of the Santa Monica Mountains
San Fernando Valley Indivisible
Sanchez Horticulture
Sepulveda Basin Weeders Group
Sierra Club California
SoCal 350 Climate Action
Solar Hawk Renewable Solutions
Southern California Watershed Alliance
Streets for All
Sunrise Movement, Los Angeles
Swing Left West Valley
Tarzana Community & Cultural Center
The Nature Conservancy
The River Project
University of California, Los Angeles, Sustainability
Urban Wildlands Center for Biological Diversity
Valley Art Workshop
Valley Justice Coalition

West Valley Nursery
West Valley People's Alliance
Youth Climate Strike Los Angeles

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to the author, "The Sepulveda Basin represents an untapped resource at the center of one of the most heavily urban areas in the region. This 2,000-acre open space area has the potential to provide huge benefits to the community, from access to green space and community development to a wide array of cultural resources. At a time when the critical nature of outdoor space is at the forefront for its benefits not only to physical and mental health but also cognitive wellbeing and social benefits, the Sepulveda Basin can provide open space in a largely urban area. It can be the Central Park of the San Fernando Valley, and a jewel of the greater Los Angeles area and the State as a whole. It can also promote climate resilience and reduce overall climate change impacts through nature-based solutions, prioritizing sustainable planning, design, and engineering practices. As one example, floodplain reclamation, watershed restoration, and groundwater recharge can create new and much-needed safeguards against drought and floods. With the worsening effects of climate change arise new land management challenges that require the preservation and protection of existing open space. The Sepulveda Basin can serve all these purposes, ameliorating some of the harmful effects of climate change and empowering local communities."

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
9/13/23 20:38:13

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

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

UNFINISHED BUSINESS

Bill No: SB 544
Author: Laird (D)
Amended: 9/8/23
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-1, 4/11/23
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio
NOES: Jones
NO VOTE RECORDED: Seyarto

SENATE JUDICIARY COMMITTEE: 9-0, 4/25/23
AYES: Umberg, Wilk, Allen, Ashby, Durazo, Laird, Min, Niello, Wiener
NO VOTE RECORDED: Caballero, Stern

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 26-3, 5/15/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dodd, Durazo, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Min, Newman, Padilla, Portantino, Roth, Skinner, Stern, Umberg, Wahab, Wilk
NOES: Caballero, Jones, Wiener
NO VOTE RECORDED: Alvarado-Gil, Dahle, Eggman, Grove, Menjivar, Nguyen, Niello, Ochoa Bogh, Rubio, Seyarto, Smallwood-Cuevas

ASSEMBLY FLOOR: Not available

SUBJECT: Bagley-Keene Open Meeting Act: teleconferencing

SOURCE: California Commission on Aging

DIGEST: This bill revises and repeals, until January 1, 2026, certain teleconference requirements under the Bagley-Keene Open Meeting Act (Bagley-Keene), which requires all meetings of a state body be open and public.

Assembly Amendments add a sunset date, provide that a quorum of members must be present at one physical location for a minimum of 50% of the state body's meetings each year, require members of the state body to visibly appear on camera during the open portion of the meeting, require at least one member of the state body to be physically present at each teleconference location, and authorize a member's remote participation if the member has a need related to a disability and notifies the state body, as specified.

ANALYSIS:

Existing law:

1) Requires, pursuant to Bagley-Keene, with specified exceptions, that all meetings of a state body be open and public and all person be permitted to attend any meeting of a state body.

2) Authorizes a state body to elect to conduct a meeting or proceeding by teleconference, and requires that state agency to post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body.

3) Requires each teleconference location to be identified in the notice and agenda of the meeting or proceeding, and each teleconference location to be accessible to the public.

4) Requires the agenda to provide an opportunity for members of the public to address the state body directly at each teleconference location, and requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

This bill:

1) Provides, in addition to the authorization to hold a meeting by teleconference pursuant to current Bagley-Keene provisions, a state body may hold an open or closed meeting by teleconference, as described, provided the meeting complies with specified requirements:

a) A majority of the members of the state body shall be physically present at the same teleconference location. Additional members of the state body in excess of a majority of the members may attend and participate in the meeting from a remote location. A remote location is not required to be accessible to the public. The notice and agenda shall not disclose information regarding a remote location.
b) Authorize a member's remote participation, if the member has a need related to a disability and notifies the state body, as specified. Under the bill, that member would be counted toward the majority of members required to be physically present at the same teleconference location.
c) If a member of the state body attends the meeting by teleconference from a remote location, the member shall disclose whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.
d) The members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform, as provided.
e) All votes taken during the teleconferenced meeting shall be by rollcall. The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
f) Upon discovering that a means of remote public access and participation required has failed during a meeting and cannot be restored, the state body shall end or adjourn the meeting, as defined.
g) Defines "Teleconference" to mean a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video.
h) Defines "Teleconference location" to mean a physical location that is accessible to the public and from which members of the public may participate in the meeting.
i) Defines "Remote location" to mean a location from which a member of a state body participates in a meeting other than a teleconference location.
j) Defines "Participate remotely" to mean participation by a member of the body in a meeting at a remote location other than a teleconference location designated in the notice of the meeting.
k) These specified requirements, as described, shall remain in effect until January 1, 2026, and as of that date is repealed.

2) Authorizes an additional means of holding a meeting by teleconference by an advisory board, advisory commission, advisory committee, advisory

subcommittee, or similar multimember advisory body, as prescribed, under specified requirements:

a) The location of a member of a state body who will participate remotely is not required to be disclosed in the public notice or email and need not be accessible to the public.
b) Provides the state body shall designate the primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting, observe and hear the meeting, and participate.
c) Provides, at least one staff member of the state body shall be present at the primary physical meeting location during the meeting. The state body shall post the agenda at the primary physical meeting location, but need not post the agenda at a remote location.
d) States when a member of a state body participates remotely in a meeting, as defined, the state body shall provide a means by which the public may remotely hear audio of the meeting or remotely observe the meeting, including, if available, equal access equivalent to members of the state body participating remotely.
e) Provides that the applicable teleconference phone number or internet website, or other information indicating how the public can access the meeting remotely, shall be in the 24-hour notice, as described.
f) Provides, the members of the state body shall visibly appear on camera during the open portion of a meeting that is publicly accessible via the internet or other online platform.
g) Defines "Participate remotely" to mean participation in a meeting at a location other than the physical location designated in the agenda of the meeting.
h) Defines "Remote location" to means a location other than the primary physical location designated in the agenda of a meeting.
i) Defines "Teleconference" to mean a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video.
j) The state body shall provide notice to the public at least 24 hours before the meeting that identifies any member who will participate remotely by posting the notice on its internet website, as specified. A member of a state body who participates in a teleconference meeting from a remote location subject to this section's requirements shall be listed in the minutes of the meeting.
k) This bill does not limit or affect the ability of a state body to hold a teleconference meeting under another provision of the Act.

l) These specified requirements, as described, shall remain in effect until January 1, 2026, and as of that date is repealed.

3) Exempts from current law an internet website or other online platform that may require the submission of information to log into a teleconferenced meeting. The bill would permit a person to submit a pseudonym or other anonymous information when using the internet website or other online platform to attend the meeting.

4) Restates current provisions of the Bagley-Keene when the above-described requirements sunset on January 1, 2026.

5) Makes technical and clarifying changes.

Background

Purpose of the Bill. According to the author's office, "in response to the COVID-19 pandemic and the widespread shutdown, the Governor signed an executive order to provide flexibility so state boards and commissions could continue to serve Californians remotely and safely. Although meant to be temporary, we saw significant benefits of remote meetings, such as increased participation and reduced operating costs to the state. This bill will promote equity and public participation by removing barriers to Californians that experience challenges attending physical meetings, such as people with disabilities, caretakers, seniors, low-income individuals, and those living in rural or different areas of the state. The bill will protect the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business."

The Bagley-Keene Opening Meeting Act of 1967. Bagley-Keene originated as a response to growing concerns about transparency and public involvement in the decision-making process of state agencies. Bagley-Keene aims to ensure that state boards, commissions, and agencies conduct their business openly and transparently, allowing the public to be informed and participate in the decision-making process.

Bagley-Keene generally requires state bodies to conduct their meetings openly and make them accessible to the public. The law also requires state bodies to provide advance notice of their meetings and agendas and to allow public comments on matters under consideration. The act includes certain exceptions, such as closed

sessions for discussing personnel issues or pending litigation, to protect the privacy and legal interests of individuals and the state.

The act applies to state bodies, which include boards, commissions, committees, councils, and any other public agencies created by state statute or executive order, with some exceptions. The law does not apply to individual officials, advisory committees with no decision-making authority, or the California State Legislature.

The Americans with Disabilities Act of 1990. The ADA is a federal civil rights law that prohibits discrimination against people with disabilities in everyday activities. The ADA prohibits discrimination on the basis of disability just as other civil rights laws prohibit discrimination on the basis of race, color, sex, national origin, age, and religion. The ADA guarantees that people with disabilities have the same opportunities as everyone else to enjoy employment opportunities, purchase goods and services, and participate in state and local government programs. The ADA contains specific requirements for state and local governments to ensure equal access for people with disabilities.

COVID-19 and Executive Order N-29-20. On March 4, 2020, Governor Newsom proclaimed a State of Emergency in California as a result of what at the time was a novel and rapidly growing COVID-19 pandemic. Despite early efforts, the virus continued to spread. On March 17, 2020, Governor Newsom issued Executive Order (EO) N-29-20 citing the fact that strict compliance with various statutes and regulations on open meetings of state bodies would have prevented, hindered, or delayed appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

In order to practice social distancing, facilitate remote work, and protect the population against the COVID-19 pandemic, EO N-29-20 authorized a state body to hold public meetings via teleconferencing. The executive order required public meetings be accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Open Meeting Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting were temporarily waived.

Temporary Teleconferencing Extension in 2022. SB 189 (Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2022), among other things, provided a temporary statutory extension for state bodies in California to hold public meetings

through teleconferencing, such as phone or video calls, instead of in-person gatherings. The law suspends certain requirements that would typically apply to in-person meetings, such as having a physical location for the public to attend and providing access to all remote teleconference locations until July 1, 2023.

In order to maintain accessibility and public participation in these remote meetings, state bodies must follow certain guidelines. They must provide advance notice of the meetings and include information on how the public can observe and participate in them, such as by offering public comment. Additionally, state bodies must establish procedures to accommodate people with disabilities, in accordance with the ADA.

State bodies are encouraged to use their best judgment when holding teleconferenced meetings, and to make an effort to follow the other provisions of Bagley-Keene as closely as possible. This helps ensure that these remote meetings remain transparent and accessible to the public. This section of the law is temporary, set to expire on July 1, 2023. After that date, the suspended requirements will come back into effect, and state bodies will need to return to following the standard provisions of Bagley-Keene.

Assembly Amendments. This bill was amended upon passage from the Assembly Governmental Organization Committee to address concerns raised in that committee's analysis and by opponents. Amendments include imposition of the January 1, 2026, sunset date to "allow further analysis of the implementation and overall impact of this and previous Bagley-Keene waivers." Amendments also provide that a quorum of members must be present at one physical location for a minimum of 50% of the state body's meetings each year, thus providing "state bodies with the flexibility they need to continue conducting business in a teleconferencing environment, while providing the public with the opportunity to participate in person and interact directly with members at designated meetings."

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

According to the Assembly Appropriations Committee, likely cost savings across state bodies to be able to continue a modified version of the now-expired teleconference meeting requirements authorized by executive order during the COVID-19 pandemic and under SB 189 (Committee on Budget and Fiscal Review), Chapter 48, Statutes of 2022. Some state bodies note that this bill's physical presence requirements would result in less cost savings than what was realized under the expired policy. For example, the physical location must have sufficient technology to connect to the teleconference system and there may be

other rental, equipment, or travel costs to meet in-person requirements. However, state bodies are not required to hold meetings by teleconference and incur such hybrid meeting costs.

SUPPORT: (Verified 9/12/23)

California Commission on Aging (source)
AARP
Advisory Council for Sourcewise
Agency on Aging – Area 4
Alcoholic Beverage Control Appeals Board
Alzheimer's Association State Policy Office
Association of California State Employees With Disabilities
Board of Barbering and Cosmetology
Board of Behavioral Sciences
Board of Registered Nursing
California Acupuncture Board
California Architects Board
California Association of Area Agencies on Aging
California Board of Accountancy
California Foundation for Independent Living Centers
California Senior Legislature
California State Board of Optometry
California State Board of Pharmacy
California Structural Pest Control Board
Dental Board of California
Dental Hygiene Board of California
Disability Rights California
Disability Rights Education & Defense Fund
Health Officers Association of California
Little Hoover Commission
Medical Board of California
Osteopathic Medical Board of California
Physical Therapy Board of California
Physician Assistant Board
SCDD
Seamless Bay Area
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
State Bar of California
The Veterinary Medical Board

OPPOSITION: (Verified 9/12/23)

ACLU California Action
American Chemistry Council
American Composites Manufacturers Association
California Association of Winegrape Growers
Californians Aware
California Broadcasters Association
California Common Cause
California Manufacturers & Technology Association
California News Publishers Association
Californians Aware: the Center for Public Forum Rights
CCNMA Latino Journalists of California
First Amendment Coalition
Glass Packaging Institute
Greater Los Angeles Pro Chapter of the Society of Professional Journalists
Howard Jarvis Taxpayers Association
Institute of Governmental Advocates
Media Alliance
National Press Photographers Association
NLGJA: Association of LGBTQ+ Journalists, Los Angeles Chapter
Orange County Press Club
Pacific Media Workers Guild, News Guild-Communications Workers of America Local 39521
Radio Television Digital News Association
San Diego Pro Chapter of The Society of Professional Journalists
San Franciscans for Sunshine
Society of Professional Journalists, Northern California Chapter, Freedom of Information Committee

ARGUMENTS IN SUPPORT: In support of the bill, the California Commission on Aging writes that, "Bagley-Keene currently allows for remote teleconference participation by members of a board or commission. However, the Act requires that all teleconference locations be posted to the agenda. As a result, members who must attend the meeting by teleconference must post the address of their private residence or office in order to participate. Additionally, Bagley-Keene requires that the locations are accessible to the public. This means that state body

members who are required to teleconference from their home must allow public access to their private residence and must ensure that their home is in compliance with the Americans with Disabilities Act."

Further, "SB 544 seeks to extend the provisions in the Executive Order by eliminating the requirement to post addresses of all teleconference locations in Bagley-Keene. Teleconference meetings will be required to post a teleconference telephone number, an internet website or other online platform, which the public can access and participate remotely. State bodies will be required to post at least one physical location where the public can participate in the meeting if they are unable to access the meeting through teleconference, and one staff member will be required to be present at the physical location."

Finally, "[t]his bill will increase transparency and promote public participation in State government by expanding the pool of candidates interested in serving. Older adults and individuals with disabilities will no longer be barred from attending meetings or participating in State government simply because they are limited from attending physically. The bill will also remove impediments for low-income, rural California residents, and caregivers who find it challenging or impossible to travel to one physical location."

ARGUMENTS IN OPPOSITION: In opposition to the bill, a coalition of business groups led by the Glass Packaging Institute writes that, "SB 544 continues a slow diminution of California's landmark open meeting and government accountability laws. Government decision making, debates, and voting should be done in person and at a single location so the public can petition and address the government body in one place. With the end of the pandemic, there is no adequate public policy reason to continue to allow remote meeting participation and voting by state boards and commissions are making consequential decisions that quite literally affect the life, liberty, and property of business and individuals. Those decisions should be made face-to-face, in full view of the public, media, and affected parties. It simply is not enough to sit in front of a computer screen at home or other undisclosed remote location while making such important decisions."

Further, "[w]hile the pandemic taught us that remote work and work from home is technologically feasible, it also showed that it is not an ideal situation for government decision-making and advocacy. Remote participation eliminates eye-to-contact, discourages back and forth dialogue during debates, and stifles pre and post meeting discussions. The stated need for this bill is that the convenience of remote participation and voting by board members will lead to more participation

in government decision-making by those who will be making decisions on behalf of government. This is not a path forward to ensure a transparent and accountable democracy."

Prepared by: Brian Duke / G.O. / (916) 651-1530
9/13/23 20:39:13

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

SENATE RULES COMMITTEE SB 565
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 565
Author: Caballero (D), et al.
Amended: 9/8/23
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 6-1, 4/26/23
AYES: Caballero, Blakespear, Durazo, Glazer, Skinner, Wiener
NOES: Dahle
NO VOTE RECORDED: Seyarto

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 32-6, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto
NO VOTE RECORDED: Nguyen, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Taxation: filing

SOURCE: Author

DIGEST: This bill requires the Franchise Tax Board to provide a free tax return preparation program to qualified individuals.

Assembly Amendments (1) sunset this bill on December 1, 2031, (2) make technical changes, including to reflect the enactment of SB 131 (Committee on Budget & Fiscal Review, Chapter 55, Statutes of 2023) which amended the same code section as this bill, and (3) resolve conflicts with AB 1002 (Irwin).

ANALYSIS:

Existing law:

1) Requires the Franchise Tax Board (FTB) to develop and make available forms for taxpayers that are as simple as possible for taxpayers to prepare; FTB must ease taxpayers' compliance burden in the form and design of tax returns.

2) Enacts a refundable Earned Income Tax Credit against the Personal Income Tax, in modified conformity with federal law (SB 80, Committee on Budget and Fiscal Review, Chapter 51, Statutes of 2015).

3) Provides that the EITC is only operative for taxable years for which resources are authorized in the annual Budget Act for FTB to oversee and audit returns associated with the credit.

4) Provides that the Legislature must establish the California EITC adjustment factor – the percentage of the credit allowed for federal taxes for the taxpayer - for each taxable year; otherwise the California EITC adjustment factor is zero. For 2022, the California EITC adjustment factor is 85 percent, with the actual amount of EITC allowed dependent upon filing status of the eligible individual, how many qualifying children the eligible individual has, and how much earned income the eligible individual claims.

5) Allows, additionally, a refundable Young Child Tax Credit (YCTC) for a taxpayer who claims the EITC, and who has a child under the age of 6 at the end of the taxable year, equal to $1,000, which is reduced by $20 for each $100 (or fraction thereof) that the taxpayer's income exceeds $25,000.

6) Allows, additionally, a Foster Youth Tax Credit (FTYC) of up to $1,083 per eligible individual, who meets all of the following requirements:

   a) Qualify for the CalEITC;

   b) Were between the ages of 18 and 25 at the end of the taxable year;

   c) Were in California foster care at age 13 or older and place through the California foster care system; and

   d) Satisfy the foster care verification requirement.

7) Allows individuals with income below a certain threshold to not file a tax return for state purposes, when the value of the standard deduction and personal exemption credit exceed the taxpayer's liability. For 2022, these

thresholds are $20,913 in gross income or $16,730 in adjusted gross income (AGI) for single taxpayers (under 65 years of age with no dependents) and $41,830 in gross income or $33,466 in AGI for married individuals filing jointly (under 65 years of age with no dependents).

8) Increases the above thresholds based on the number of dependents claimed, or if the taxpayer(s) are over the age of 65, and directs FTB to adjust them annually for inflation.

9) Prohibits, generally, disclosure or inspection of any income tax return information, and sets forth criminal sanctions, including imprisonment, which apply to FTB personnel convicted of unlawful disclosure or inspection of tax records.

10) Contains explicit exemptions allowing FTB to disclose information to certain entities for specified purposes, including to allow FTB to exchange data with the Department of Social Services (DSS) and the Department of Health Care Services (DHCS) including the names, addresses, and contact information of individuals that may qualify for the EITC.

This bill:

1) Requires FTB to provide a free tax return preparation program to qualified individuals for taxable years beginning on or after January 1, 2025, and ending after the 2030 taxable year.

2) Specifies that for taxable years that begin on or after January 1, 2025, and before January 1, 2027, the program must be made available to qualified individuals that file as single with no dependents or married filing separate.

3) Requires FTB to expand the program to include all qualified individuals no later than taxable years beginning on or after January 1, 2027, and ending after the 2030 taxable year.

4) Defines “free tax return preparation program” as a free program that utilized pre-population of data (to the extent possible) for qualified individuals to complete and e-file their California state personal income tax returns.

5) Defines “CalFile” as the FTB’s free, direct, online program for taxpayers to complete and e-file their California state personal income tax returns.

6) Defines a “qualified individual” as a natural person that meets all of the following requirements:

a) Has filed individual income tax returns for at least one of the five prior taxable years prior to the calendar year that the individual uses the free tax return preparation program;

b) Has received an invitation from the FTB to participate in the free tax return preparation program for the taxable year;

c) Is eligible to use CalFile for the taxable year; and

d) Is eligible for any of the following credits:

i) CalEITC

ii) YCTC

iii) FYTC

7) Requires that the free tax return preparation program shall meet the following requirements:

a) Provides questions to guide qualified individuals to file their California income tax returns; and

b) Allows taxpayers to edit or correct the information on their return prior to filing include their filing status and information on their dependents.

8) Exempts the FTB from all provisions of state contracting law and any approvals or oversight from the Department of Technology or the Department of General Services, as well as from Project Approval Lifecycle requirements and reporting as described in the applicable sections of the Statewide Information Management Manual, for purposes of implementing the bill.

9) Specifies that the free tax return preparation program shall be available for use beginning on January 20, 2026.

10) Expands existing data sharing provision between the DSS, the DHCS, and the FTB, to allow for the exchange of data directly connected with the administration of the free tax return preparation program established under Section 19587 that would be added by this bill.

11) Repeals the measure on December 1, 2031.

12) Contains provisions to resolve conflicts with AB 1002 (Irwin).

Background

Increasing EITC claims. Since it was enacted, taxpayers were not claiming the California EITC at the Legislature's desired and anticipated rate. In 2020, the Legislature enacted SB 1409 (Caballero, Chapter 114, Statutes of 2020), which requires the FTB provide a study that would analyze and develop a plan to implement a "no return" or "non-filer" tax filing pilot program. The study was provided to the legislature on January 3, 2022. The findings discussed opportunities to allow for taxpayers with little to no income to file their returns to claim the CalEITC, YCTC and FYTC. The study discussed each possibility, and indicated that there would be less risk if FTB were able to work with "known populations" of taxpayers first, before they did any outreach to those without a filing requirement who have never filed with the FTB. The study recommended enhancing CalFile as a starting point would allow the FTB to reach out to those that have filed with the FTB in the past. The report noted that there were significant fraud risks in starting with the simplified one page return and not starting with a known population of taxpayers

CalFile. CalFile is a free, direct online program that allows taxpayers to e-file their California only personal income tax returns with FTB. The CalFile program expanded the taxpayer population eligible for this service and also allowed taxpayers to file prior year returns. FTB began utilizing CalFile exclusively as a simplified filing portal for the California return in 2015. This portal also allowed for pre-population of data if taxpayers registered and obtained a MyFTB account. However, this portal does not provide a mechanism for the taxpayer to file a federal personal income tax return.

Related/Prior Legislation

AB 1002 (Irwin, 2023) directs FTB, for taxable years beginning on or after January 1, 2026, to allow a qualified individual, who cannot claim withholding or other credits, to claim the EITC, the YCTC, or the FYTC on a form that does not require the qualified individual to file an individual income tax return. The bill also allows the FTB to develop a smaller form that may be filed in its place. The bill also exempts the FTB from existing contracting laws and specified approvals and oversight in administration relating to the form. AB 1002 is currently pending on the Senate Floor.

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

According to the Assembly Appropriations Committee:

- Costs of approximately $609,000 in fiscal year (FY) 2023-24, $4.1 million in FY 2024-25, and $7 million in FY 2025-26 to FTB to develop the program and update information technology (IT) systems (General Fund (GF)). FTB notes this cost estimate was developed with the assumption that another bill (AB 1002 (Irwin)) requiring FTB to facilitate CalEITC, YCTC, and FYTC claims is also enacted, as the resources and system changes needed for both proposals are significantly intertwined. Thus, costs associated with this bill may be higher if AB 1002 is not also enacted.

- Likely minor and absorbable costs to DSS and DHCS to exchange data with FTB, as the agencies are already required exchange data with FTB to implement other tax programs.

- GF revenue loss of an unknown, but potentially significant, amount to the extent streamlining the tax filing process increases the number of taxpayers claiming the CalEITC, YCTC, or FYTC.

SUPPORT: (Verified 9/12/23)

All Home
Economic Security Project Action

OPPOSITION: (Verified 9/12/23)

California Taxpayers Association

ARGUMENTS IN SUPPORT: According to the author, "The California Earned Income Tax Credit, Young Child Tax Credit, and Foster Youth Tax Credit are some of California's most important anti-poverty tools, which improve the economic security of working families that struggle to make ends meet. California has made important investments in educational outreach to ensure eligible families are aware that they qualify for these credits, but many still fail to claim the credits because they do not file a state tax return. SB 565 implements recommendations by the FTB pursuant to SB 1409 (Caballero, 2020) to reduce barriers to tax filing by requiring FTB implement new enhancements to the CalFile program. CalFile is a free to use tax filing system for eligible households, but due to a variety of factors, can be cumbersome and is not user friendly. Under SB 565, FTB will be required to modify CalFile to enhance the user experience and notify taxpayers of their eligibility to file, including when data can be pre-populated automatically. SB 565

will not only improve an existing platform for tax filers, it will help ensure more eligible families receive the credits they are entitled to."

ARGUMENTS IN OPPOSITION: According to the California Taxpayers Association, "The program proposed under SB 565 could lead to potential conflicts of interest, as the FTB would be responsible for partially filing, processing, reviewing, and adjudicating tax returns. When a taxpayer engages in filing on their own behalf or through a tax preparer, the taxpayer or the preparer will be able to advocate in the taxpayer's interest. There must be a separation between the taxpayer and tax administrator/collector to maintain fairness and objectivity during the compliance process. SB 565 could result in taxpayers receiving less tax credits than they are eligible to receive, or possibly exposing the FTB to potential fraudulent claims. Assessing eligibility for tax credits is a complicated process that requires intimate knowledge about taxpayers' families and living situations, in addition to income, age, and other factors that might be relevant for a particular credit. Errors could cause interruptions or delays in receiving benefits, and fraudulent claims would undermine the integrity of the tax credit programs. Errors also could lead to filers receiving lower benefits than they are eligible for, or overstatements of credits that the recipient would have to pay back (with interest and penalties). Further, a pre-populated state return may result in taxpayers missing out on federal credits they are eligible to claim, since filing both a state and federal return is necessary to claim federal credits."

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
9/13/23 20:38:11

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

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

UNFINISHED BUSINESS

Bill No: SB 578
Author: Ashby (D), et al.
Amended: 9/7/23
Vote: 21

SENATE JUDICIARY COMMITTEE: 10-0, 4/11/23
AYES: Umberg, Wilk, Allen, Ashby, Durazo, Laird, McGuire, Min, Niello, Wiener
NO VOTE RECORDED: Stern

SENATE HUMAN SERVICES COMMITTEE: 5-0, 4/24/23
AYES: Alvarado-Gil, Ochoa Bogh, Hurtado, Menjivar, Wahab

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Juvenile court: dependents: removal

SOURCE: California Judges Association

DIGEST: This bill requires a social worker to report on, and a juvenile court to consider, the potential harms that may result from removing a child from their parent, guardian, or Indian custodian's custody; and, if the child is or there is reason to know the child is an Indian child, requires the social worker to report on what efforts have been made to contact the child's tribe.

Assembly Amendments clarify the juvenile court's obligations at the initial hearing, add material that must be included in the social worker's report relating to the harms of removal and placement preferences, modify the factors that the court must consider and address in its order relating to less-disruptive alternatives to removal, and add chaptering-out amendments to avoid a conflict with AB 81 (Ramos, 2023) and AB 448 (Juan Carrillo, 2023).

ANALYSIS: Existing federal law establishes the Indian Child Welfare Act (ICWA), which provides guidance to states regarding the jurisdictional requirements, proceedings of tribal courts, and custody proceedings involving the removal of Indian children from their parents. (25 U.S.C., ch. 21, §§ 1901 et seq.)

Existing state law:

1) Establishes the juvenile court, which is intended to provide for the protection and safety of the public and minors falling under its jurisdiction. (Welf. & Inst. Code, §§ 202, 245.)

2) Provides that a minor may become a dependent of the juvenile court and be removed from the custody of their parent or guardian[1] on the basis of enumerated forms of abuse or neglect. (Welf. & Inst. Code, § 300(a)-(j).)

3) Provides that the purpose of the juvenile court and the dependency system is to provide the maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected, or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm. This safety, protection, and physical and emotional well-being may include provision of a full array of social and health services to help the child and family and to prevent the reabuse of children. (Welf. & Inst. Code, § 300.2.)

4) Provides that a proceeding to declare a child to be a dependent of the juvenile court is commenced when a social worker files a petition with the juvenile court. (Welf. & Inst. Code, § 325.)

    a) A social worker may file a petition while the child remains in the custody of their parent. (Welf. & Inst. Code, § 325.)

    b) If a child has been removed from the custody of their parent without a warrant and remains detained, pursuant to specified requirements, the child must be released within 48 hours, excluding nonjudicial days, unless a

[1] Going forward, this analysis uses "parent" to include "guardian" and the single includes the plural.

petition to declare the child a dependent of the juvenile court is filed. (Welf. & Inst. Code, §§ 305, 309, 313.)

c) If it is known or there is reason to know that the child taken into custody under 4(b) is an Indian child, the social worker must comply with additional requirements consistent with the ICWA. (Welf. & Inst. Code, §§ 224, 224.1, 305.5.)

5) Requires an initial hearing must be held on a petition to declare a child to be a dependent of the juvenile court. (Welf. & Inst. Code, § 319.)

6) Requires a social worker to report information at the initial hearing as follows:

a) For all children, the social worker must report to the court on the reasons the child was removed from the parent or Indian custodian's physical custody, the need, if any, for further detention, the available services and referral methods that could facilitate the return of the child to their parent or Indian custodian's custody, and whether there are any relatives willing and able to take temporary physical custody of the child. (Welf. & Inst. Code, § 319(b).)

b) If it is known or there is reason to know that the child is an Indian child, the report must include additional information, including efforts taken to assist the parents or Indian custodians so the Indian child may safely be returned to their custody. (Welf. & Inst. Code, § 316(b)(1)-(9).)

7) Requires, at an initial hearing where the child has already been detained, the court to order the release of the child from custody unless a prima facie showing has been made that the child is within the jurisdiction of the juvenile court, the court finds that the continuance in the parent's home is contrary to the child's welfare, and any of the following circumstances exist:

a) There is a substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which the child's physical or emotional health may be protected without removing the child from the parent's custody.

b) There is substantial evidence that a parent is likely to flee the jurisdiction of the court.

c) The child has left a placement in which the child was placed by the juvenile court.

d) The child indicates an unwillingness to return home, if the child has been physically or sexually abused by a person residing in the home. (Welf. & Inst. Code, § 319(c).)

8) Imposes, if the child is an Indian child, limitations in addition to those in 7) for a court to order that the Indian child remain in detention:

   a) When the court finds that there is substantial evidence that a parent or Indian custodian is likely to flee the jurisdiction, the court must also find that fleeing the jurisdiction will place the child at risk of imminent physical damage or harm.

   b) Under all circumstances, the court may detain the Indian child only if it also finds that detention is necessary to prevent imminent physical damage or harm and must state the facts supporting the finding on the record. (Welf. & Inst. Code, § 319(c), (d).)

9) Authorizes, at an initial hearing where a child has not yet been detained, a court to order the child to be detained, provided that the court does all of the following:

   a) States the facts on which the decision was based.

   b) Specifies why the initial removal was necessary.

   c) References the social worker's report or other evidence relied upon to make its determination whether continuance in the home of the parent or legal guardian is contrary to the child's welfare.

   d) Makes orders addressing the child's placement and care and the provision of reunification services, as appropriate. (Welf. & Inst. Code, § 319(g).)

10) Establishes, for children who remain out of or are removed from their parent's custody after the initial hearing, a series of review hearings at six-month intervals at which the court may return the child to their parent's custody or continue the child's placement outside their parent's home; these review hearings may culminate in a permanency hearing that terminates parental rights and a permanent placement for the child. (Welf. & Inst. Code, §§ 361.5, 366.21, 366.22, 366.25.)

This bill:

1) Requires a social worker, in their report to the court prior to the initial hearing on whether to remove a child from, or keep a child out of, their parent or Indian custodian's custody, to include:

    a) Information regarding any short-term and long-term harms that may result from the child's removal from custody, including, but not limited to, the factors set forth in 2)a)-c), as well as measures to alleviate the disruption and minimize the harms of removal with the least disruptive alternatives and.

    b) If it is known or there is reason to know the child is an Indian child, the social worker's compliance with placement preferences, as specified, and the steps taken to consult and collaborate with the child's tribe and the outcome.

2) Requires a court, as part of its determination as to whether continuance in the parent's home is contrary to the child's welfare at the initial hearing, to consider the report filed in 1) and determine whether less disruptive alternatives to removal were considered by the child welfare agency, such as factors related to the impact of removal on the child, including, but not limited to:

    a) A description of the relationship between the child and their parents, guardians, or Indian custodians, based on the child's perspective, and the child's response to removal and, where developmentally appropriate, their perspective on removal.

    b) The relationship between the child and any siblings.

    c) The relationship between the child and any other members of the household.

    d) The disruption to the child's schooling, social relationships, and physical or emotional health that may result from placement out of the home, and, in the case of an Indian child, any impact on the child's connection to their tribe, extended family members, and tribal community.

3) Requires a court, if it finds at the initial hearing that removal is necessary, to, in a written order or on the record, set forth all of the following:

    a) The basis for its findings and the evidence relied on.

b) Its determination regarding the child's placement, including whether it complies with the placement preferences for Indian children and less disruptive alternatives.

c) Any orders necessary to alleviate any disruption or harm to the child resulting from removal.

4) Provides that nothing permits a child to be released to a parent, legal guardian, or Indian custodian, or to be placed in an unsafe placement, due solely to the court determining the child was not offered less disruptive alternatives.

5) Requires a court, when making a determination on the record regarding whether reasonable efforts were made to prevent or eliminate the need for removal, as specified, to make the determination for each child individually, with the considerations tailored to the individual child.

6) Adds chaptering-out amendments to avoid a conflict with AB 81 (Ramos, 2023) and AB 448 (Juan Carrillo, 2023).

Comments

Author's statement

There is no disputing that children suffer harm when they are separated from their parents. The highly traumatic experience of family separation can cause irreparable harm, disrupting a child's brain architecture and affecting their short- and long-term health. SB 578 is a bill sponsored by the very judges who are charged with this most difficult task. SB 578 seeks to reduce the harm a child must endure by requiring a trauma informed analysis be provided to judges in advance of any removal decision. Judges will make a more informed decision in the best interest of the child when given the requested analysis they need to weigh what is the safest and healthiest outcome given all that is happening in the life of the child before them.

SB 578 will require the court to consider the trauma a child will experience as a result of removal from parental care and weigh that harm against the potential risk of non-removal. The trauma analysis will include connections not only to family, but also to school and community. Judges will have a better opportunity to mitigate harms by having this additional context at the time of deciding how best to proceed. The judge will also be able to ask that the social worker's harm reduction, trauma informed report include suggested mitigation solutions to the impact of removal. Eight states and Washington D.C. require the courts to assess the harm of removal, or include the harm of removal and emphasis on family preservation in

their reasonable efforts criteria or agency guidance. It is time that California follows their lead and requires our own trauma-informed harm reduction model, in so doing, we can better protect children and their families across our great state.

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

According to the Assembly Appropriations Committee:

1) Costs (General Fund (GF)) to the Department of Social Services (DSS) to provide technical assistance and training to county child welfare agencies. DSS anticipates costs of $341,000 in fiscal year 2024-25 and $330,000 annually ongoing for two additional analyst positions.

2) Potential costs of an unknown amount (GF, local funds, federal funds) to the counties for social workers to provide additional information in their detention hearing reports. Actual costs will depend on whether social workers already routinely gather and report the type of information required by this bill or if doing so will significantly add to their workload for each case. DSS anticipates providing county child welfare agencies $1.2 million annually ongoing GF to fulfill the duties required by this bill. Although these potential county costs are mandated by the state, they are not reimbursable but instead must be paid by the state pursuant to Proposition 30 (2012). Proposition 30 provides that legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by realignment (including child welfare services and foster care) applies to local agencies only to the extent the state provides annual funding for the cost increase.

SUPPORT: (Verified 9/13/23)

California Judges Association (source)
All of Us or None Orange County
California Catholic Conference
California Families Rise
Dependency Legal Services
East Bay Family Defenders
JMACforFamilies
Legal Services for Prisoners with Children
Los Angeles Dependency Lawyers, Inc.
National Center for Lesbian Rights
National Center for Youth Law
National Coalition for Child Protection Reform

Opioid Policy Institute
Parents Against CPS/Court Corruption
Pregnancy Justice
Public Counsel
Starting Over, Inc.
One individual

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to the National Center for Youth Law:

> Unlike eight other states and Washington D.C., California has no statutory requirement for juvenile courts to consider the many types of trauma a child experiences when removed from care of their parent(s). Removal causes children, their families, and their communities significant and often *irreparable* harms. Highly stressful experiences like family separation disrupt a child's brain architecture, harm their short- and long-term health, and "contradict…protecting and promoting children's health." Many studies have shown that children left at home often fared better than similarly situated children who were removed and placed in foster care. Courts have agreed with research showing that removing a child from their parent may be "more damaging to the child than doing nothing at all."…
>
> SB 578 will protect children by ensuring that these known harms are at the fore of any judicial decision to inflict the severe and traumatizing intervention of separating a child from their parent(s).

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
9/13/23 20:55:27

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

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

UNFINISHED BUSINESS

Bill No: SB 582
Author: Becker (D)
Amended: 9/7/23
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 4/12/23
AYES: Eggman, Nguyen, Glazer, Gonzalez, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NO VOTE RECORDED: Grove

SENATE JUDICIARY COMMITTEE: 11-0, 4/25/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello, Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 39-0, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Limón

SENATE HEALTH COMMITTEE: 10-0, 9/13/23 (Pursuant to Senate Rule 29.10)
AYES: Eggman, Nguyen, Glazer, Grove, Hurtado, Limón, Menjivar, Roth, Wahab, Wiener
NO VOTE RECORDED: Gonzalez, Rubio

ASSEMBLY FLOOR: 78-0, 9/12/23 - See last page for vote

SUBJECT: Health information

SOURCE: California Medical Association

DIGEST: This bill requires the California Health and Human Services (CHHS) Data Exchange Framework stakeholder advisory group to consider whether standards for including electronic health record (EHR) vendors in the data exchange framework would be appropriate, and, if determined appropriate develop those standards. This bill requires, if standards are developed, EHR vendors to execute the data exchange framework data sharing agreement no later than 12 months after the completion of the standards and in alignment with existing federal standards and policies. This bill amends provisions of SB 1419 (Becker, Chapter 888, Statutes of 2022) dealing with application programming interfaces and electronic disclosure of test results.

Assembly Amendments:

1) Require the Exchange Framework to align with the information blocking provisions of the federal 21st Century Cures Act.

2) Revise the definition of EHR vendor to mean a company, other than a health care provider that self-develops health information technology for its own use, that sells electronic health records, as defined in federal law, as specified.

3) Limit administrative oversight and enforcement authority that is the subject of this bill only to monitor fees charged by EHR vendors not in compliance with federal standards, as specified.

4) Require the stakeholder advisory group, in discussing data element that are required to be exchanged, to consider data needed for administrative functions of a medical practice, including intake forms and questionnaires, patient scheduling, insurance card upload and verification, invoicing and payment data, and patient-to-provider messaging.

5) Remove the January 1, 2024 requirement for health plans and insurers to establish and maintain patient access, provider directory, and payer to payer exchange application programming interfaces (API) as required by SB 1419 (Becker, Chapter 888, Statutes of 2022) and instead require the Department of Managed Health Care (DMHC) and California Department of Insurance (CDI) to require plans and insurers to do this if and when final rules are published by the federal government.

6) Add prior authorization requirements, documentation, and decision API to 4) above.

7) Exempt dental or vision benefits offered by a health plan or specialized plan from 4)-6) above.

8) Allow test results to be disclosed electronically if the patient and health care professional have discussed the potential impact of the results and the patient elects to receive them without delay.

9) Address chaptering out conflicts with AB 352 (Bauer-Kahan) related to health information.

ANALYSIS:

Existing law:

1) Requires on or before July 1, 2022, and subject to an appropriation in the annual Budget Act, the CHHS agency, along with its departments and offices and in consultation with stakeholders and local partners, to establish the CHHS Data Exchange Framework (data exchange framework) to include a single data sharing agreement and common set of policies and procedures that will leverage and advance national standards for information exchange and data content, and that will govern and require the exchange of health information among health care entities and government agencies in California. [HSC §130290]

2) Requires, on or before January 31, 2023, and in alignment with existing federal standards and policies, the following health care organizations to execute the data exchange framework data sharing agreement:

    a) General acute care hospitals;
    b) Physician organizations and medical groups;
    c) Skilled nursing facilities that currently maintain electronic records;
    d) Health plans and disability insurers that provide hospital, medical, or surgical coverage that are regulated by DMHC or the CDI; including a Medi-Cal managed care plan under a comprehensive risk contract with the State Department of Health Care Services that is not regulated by DMHC or CDI;
    e) Clinical laboratories, as specified, and that are regulated by the State Department of Public Health; and,
    f) Acute psychiatric hospitals. [HSC §130290]

3) Requires, on or before January 31, 2024, the entities listed above, to exchange health information or provide access to health information to and from every other entities listed above in real time as specified by CHHS pursuant to the data exchange framework data sharing agreement for treatment, payment, or

health care operations. Exempts physician practices of fewer than 25 physicians, rehabilitation hospitals, long-term acute care hospitals, acute psychiatric hospitals, critical access hospitals, and rural general acute care hospitals with fewer than 100 acute care beds, state-run acute psychiatric hospitals, and any nonprofit clinic with fewer than ten health care providers until January 31, 2026. [HSC §130290]

4) Requires the CHHS agency to convene a stakeholder advisory group, no later than September 1, 2021, to advise on the development and implementation of the data exchange framework, and requires the stakeholder advisory group to inform and advise the CHHS agency on health information technology (IT) issues, as specified. [HSC §130290]

5) Requires, in the event that a health care professional arranges for the provision of test results by internet posting or other electronic manner, the results to be disclosed in a reasonable time period, but only after the results have been reviewed by the health care professional. [HSC §123148]

6) Requires a health plan and health insurer, commencing January 1, 2024, in order to facilitate patient and provider access to health information, to establish and maintain the following APIs for the benefit of enrollees and contracted providers, as applicable:

    a) Patient access API, as described in specified federal law;
    b) Provider directory API, as described in specified federal law; and,
    c) Payer-to-payer exchange API, as described in specified federal law. [HSC §1374.196]

7) Permits DMHC and CDI to require a health plan or health insurer, respectively, to establish and maintain the following APIs if and when final rules are published by the federal government, and in alignment with federal effective dates:

    a) Provider access API; and,
    b) Prior authorization support API. [HSC §1374.196]

This bill:

1) Requires the stakeholder advisory group to consider whether standards for including EHR vendors in the data exchange framework would be appropriate, and, if determined appropriate develop those standards.

2) Requires, if standards are developed, EHR vendors to execute the data exchange framework data sharing agreement no later than 12 months after the completion of the standards and in alignment with existing federal standards and policies.

3) Requires any fees charged by an EHR vendor to enable compliance with the data exchange framework to be reasonable, consistent with federal regulations, as specified.

4) Requires reasonable fees to be sufficient to include the cost of enabling the collection and sharing of all data required to be exchanged under the law, as specified in the data exchange framework data sharing agreement; and, as part of any other oversight activities, in consultation with the stakeholder advisory group or a subsequent governing board, permits CHHS to establish administrative oversight and enforcement authority, including the imposition of fines and penalties against an EHR vendor that is found not in compliance with federal standards, as specified.

5) Exempts the exchange of health information related to abortion and abortion-related services from requirements to exchange health information on or before January 31, 2024.

6) Removes the January 1, 2024 requirement for health plans and insurers to establish and maintain patient access, provider directory, and payer to payer API and instead require DMHC and CDI to require plans and insurers to do this if and when final rules are published by the federal government.

7) Adds prior authorization requirements, documentation, and decision API to 6) above.

8) Exempts dental or vision benefits offered by a health plan or specialized plan from 6) and 7) above.

9) Allows test results to be disclosed electronically if the patient and health care professional have discussed the potential impact of the results and the patient elects to receive them without delay.

Comments

According to the author, the data exchange framework is intended to enable real-time exchange of patients' medical data between physicians and other health care entities to improve patient care and reduce costs within the health care system. Unfortunately, EHR vendors appear to be creating barriers to this plan by charging

unreasonable fees. Health care providers are heavily reliant on their EHR vendors to support these requirements because it is very difficult and expensive to switch vendors. EHR vendors can take advantage of this by charging unreasonable fees, including fees as high as tens of thousands of dollars per physician for the required support. This bill will prevent unfair practices by their EHR vendors, first, by requiring EHR vendors to be governed by the data sharing agreement that will apply to all participants under the data exchange framework and, second, by incorporating federal standards for reasonableness of health IT vendor fees into state statute and authorizing the state to enforce these standards. By adding this state oversight, this bill will ensure that unfair vendor fees do not become a barrier to successful implementation of the data exchange framework and the gains in patient care that medical data sharing will unlock.

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

According to the Assembly Appropriations Committee, CHHS Center for Data Insights and Innovation estimates one-time costs of approximately $2 million to $2.5 million, including resources for three additional staff and consulting costs for planning and support (General Fund). No costs to CDI.

SUPPORT: (Verified 9/7/23)

California Medical Association (source)
California Academy of Family Physicians
California Orthopedic Association
California State Association of Psychiatrists
San Francisco Marin Medical Society

OPPOSITION: (Verified 9/7/23)

Department of Finance
HIMSS Electronic Health Record Association
OCHIN/California Telehealth Network

ARGUMENTS IN SUPPORT: This bill is sponsored by the California Medical Association, which writes, to comply with both the data exchange framework and the federal regulations, physicians are heavily reliant on their EHR vendors. For example, if a practice decides to implement the data exchange framework by contracting with a health information organization (HIO), they will need their vendor to work with the HIO to develop an interface that facilitates the flow of data. That interface may be unique to the practice. The problem arises when the vendors take advantage of situations like the one mentioned above and then charge

unreasonable fees to the practice to develop the interface. These fees can range into the tens of thousands of dollars per physician. Compliance with the data exchange framework is required in state law. Physicians then face a daunting choice: pay the fees, break state law or change EHR vendors. All of the above can cause massive disruption for the practice and the patients they serve. This bill addresses the issues mentioned above by empowering the data exchange framework advisory group to develop standards for including EHR vendors in the data exchange framework, requiring EHR vendors to sign the data sharing agreement being developed by the CHHS agency and incorporating federal standards for reasonableness of vendor fees into state statute and authorizing the state to enforce these standards. The California State Association of Psychiatrists writes this bill will ensure that unfair vendor fees do not become a barrier to the successful implementation of the data exchange framework and the gains in patient care that medical data sharing will unlock.

ARGUMENTS IN OPPOSITION: OCHIN/California Telehealth Network writes that this bill seeks to limit one much smaller component of costs that would be borne by providers that will be created when the data exchange framework creates digital data and technical standards that differ from mature national, multi-stakeholder standards, particularly those being advanced under the Trusted Exchange Framework and Common Agreement (TEFCA) and the U.S. Core Data for Interoperability (USCDI). It does not account for the increased administrative burden, additional staff time, and cognitive fatigue that providers and their staff will shoulder every day, cumulatively, when data exchange framework requirements differ from TEFCA and USCDI. While this bill is intended to alleviate provider cost, it will in fact, not address the greater burden and cost of conflicting or duplicative documentation and reporting requirements. OCHIN writes that this bill creates a new California regulatory arm while borrowing only some portions of federal regulations related to the reasonableness of fees that are already enforceable under federal law. As such, this creates a duplicative state enforcement agency responsible for enforcing federal regulations.

ASSEMBLY FLOOR: 78-0, 9/12/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson,

Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Davies, Sanchez

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
9/13/23 11:31:26

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

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

UNFINISHED BUSINESS

Bill No: SB 601
Author: McGuire (D)
Amended: 7/13/23
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 4/17/23
AYES: Roth, Nguyen, Alvarado-Gil, Archuleta, Ashby, Becker, Dodd, Eggman, Glazer, Niello, Smallwood-Cuevas, Wahab, Wilk

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 4/25/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-0, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NO VOTE RECORDED: Jones, Seyarto

SENATE FLOOR: 40-0, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: 80-0, 9/12/23 - See last page for vote

SUBJECT: Professions and vocations: contractors: home improvement contracts: prohibited business practices: limitation of actions

SOURCE: Contractors State License Board

DIGEST: This bill specifies that if a violation of certain provisions of the Contractors Law occurs in a location damaged by a natural disaster for which a state of emergency has been declared, the court shall impose the maximum fine. The bill also adds violations pertaining to fraudulent or misrepresented licenses to

specified provisions of the Penal Code (PEN) with a three-year statute of limitations period.

Assembly Amendments specify that contractor violations in disaster areas are subject to maximum fines allowable.

ANALYSIS:

Existing law:

1) Establishes the Contractors State License Board (CSLB) to enforce and administer the Contractors State License Law (license law). (Business and Professions Code (BPC) § 7000 *et seq*.)

2) Requires the Registrar to issue a citation to a person whom, upon inspection or investigation, either upon complaint or otherwise, the Registrar has probable cause to believe is acting in the capacity of or engaging in the business of a contractor or salesperson within this state without having a license or registration in good standing and is not otherwise exempted from the law. (BPC § 7028.7(a))

3) Makes a person guilty of a misdemeanor who does any of the following:

   a) displays or causes or permits to be displayed or has in the person's possession either of the following:

      i) a canceled, revoked, suspended, or fraudulently altered license.

      ii) a fictitious license or any document simulating a license or purporting to be or have been issued as a license;

   b) Lends the person's license to any other person or knowingly permits the use thereof by another.

   c) Displays or represents any license not issued to the person as being the person's license.

   d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate, which has been suspended, revoked, or canceled.

e) Knowingly permits any unlawful use of a license issued to the person.

f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in the person's possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized.

g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. (BPC § 119)

4) Requires prosecution for an offense not punishable by death or imprisonment in the state prison to be commenced within one year of the offense, unless specified. (PEN) § 802(a))

5) States prosecution for a misdemeanor of specified provisions of the BPC, commence within three years after discovery of the offense or within three years after completion of the offense, as specified. (PEN § 802)

This bill:

1) Specifies that if a violation of certain provisions of the Contractors Law occurs in a location damaged by a natural disaster for which a state of emergency has been declared by the Governor, as specified or the President of the United States, the court shall impose the maximum fine.

2) Adds violations pertaining to fraudulent or misrepresented licenses to specified provisions of the PEN with a three-year statute of limitations period.

Background

Current law, (BPC 7150 et seq.) specifies the requirements for home improvement contracts, establishes the registration program for home improvement salespersons, and defines home improvement, among other provisions. A home improvement contract and any changes made to that contract must be in writing, legible, easy to understand, and inform the consumer of his/her rights to cancel or rescind the contract. There are several specified requirements that must be contained in the home improvement contract, many of which are intended to help protect consumers including contract cancellation rights, down payment security, the prohibition on payment in advance of completed work, and undelivered materials.

In 2020, SB 1189 (McGuire, Chapter 364, Statutes of 2020) expanded the definition of "home improvement" to specifically include the reconstruction, rebuilding or restoration of a residential property destroyed by a natural disaster in a declared disaster area. This was to ensure that contracting work in a disaster area would be subject to the existing contract requirements-including down payment restrictions and right to cancel policies. Concerns expressed at that time about potentially bad actors taking advantage of consumers who need to rebuild or repair after a natural disaster.

BPC § 7159 specifies the types of construction related work which requires a home improvement contract, outlines the contract requirements, and lists the items that must be included in the contract, or may be provided as an attachment. The majority of construction related contracts whose labor and materials are more than $500 are subject to the requirements of a home improvement contract. If a contractor violates provision of the home improvement contract requirements including the down payment restrictions, that the contract be in writing and include the contract amount, or request payment that exceeds the value of the work, the contractor is subject to a fine of which at a minimum is $100 and ranges up to $5,000. This bill would increase the penalty to the maximum if the violation occurs in a disaster area as declared by the Governor or the President of the United States.

BPC § 119: Misdemeanors Pertaining to the Use of a License. Current law makes certain actions with respect to the fraudulent use/display of a license issued by an entity under the DCA, subject to a misdemeanor penalty. This includes, displaying a canceled or revoked license, having a fake license purporting that the holder is licensed, lending a license to someone else, buying or receiving a fraudulent license, among others. The statute of limitations for prosecuting that offense is one year. However, under PC § 802, there are certain offenses which have a three-year statute of limitations for specified violations pertaining to mortgage brokers and unlicensed practice of law. This proposal would add the violations specified in BPC § 119 to the list of misdemeanors in PC § 802(e) that have a statute of limitations of three years after discovery of the commission of the offense. Setting a three-year statute of limitations period would provide time for CSLB to investigate and pursue offenses for violating license provisions. As noted by the CSLB, the board may not receive a consumer complaint within the current one-year statute of limitations. Consequently, CSLB may be prevented from pursuing criminal action, making the only option administrative disciplinary action, which may not always be the most effective deterrent.

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

According to the Assembly Appropriations Committee:

1) Negligible costs to the Contractors State Licensing Board (CSLB). The CSLB does not anticipate additional workload during complaint investigations due to the maximum fine provisions.

2) Cost pressures (Trial Court Trust Fund, General Fund), potentially in the low- to mid-hundreds of thousands of dollars annually, for trial courts to adjudicate additional causes of action brought under the provisions of this bill that would otherwise be barred under the statute of limitations in existing law. If five cases are filed in civil court annually requiring seven to 10 days (56 to 80 hours) of court time, at an average cost per hour of $1,000 in workload costs, the cost to the trial courts would be between $128,000 and $400,000 annually. Actual costs would vary depending on the number of cases filed and the amount of court time required in each case. Although courts are not funded on the basis of workload, increased pressure on the courts and staff may create a need for increased funding for courts to perform existing duties.

SUPPORT: (Verified 9/11/23)

Contractors State License Board (source)
California Surety Federation

OPPOSITION: (Verified 9/11/23)

None received

ARGUMENTS IN SUPPORT: Supporters generally note this bill will help address the fraudulent use of another's license and promote transparency and fairness in the industry.

ASSEMBLY FLOOR: 80-0, 9/12/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe

Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
9/12/23 19:10:55

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

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

UNFINISHED BUSINESS

Bill No: SB 613
Author: Seyarto (R)
Amended: 6/28/23
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 3/29/23
AYES: Allen, Dahle, Gonzalez, Hurtado, Menjivar, Nguyen, Skinner

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: 80-0, 9/11/23 - See last page for vote

SUBJECT: Organic waste: reduction goals: local jurisdictions: low-population waiver

SOURCE: Author

DIGEST: This bill creates a waiver for low-population local jurisdictions and exempts those jurisdictions from SB 1383 organics waste diversion goals until December 31, 2028, if they do not already have another, specified, waiver.

Assembly Amendments (1) specify that local jurisdictions that already have a low-population, rural, or high-elevation waiver established in the California Code of Regulations, are not eligible for the waiver created in this bill; and (2) authorize the Department of Resources Recycling and Recovery (CalRecycle) to, instead of providing an alternative recovered organic waste product target schedule, renew a low-population waiver established in this bill.

ANALYSIS:

Existing law:

1) Requires the California Air Resources Board (CARB) to complete, approve, and implement a comprehensive strategy to reduce emissions of short-lived climate pollutants (SLCPs) in the state to achieve, among other things, a reduction in the statewide emissions of methane by 40%. (Health and Safety Code (HSC) §§39730 et seq.)

    a) Requires that methane emissions reduction goals include specified targets to reduce the landfill disposal of organic waste by 50% relative to its 2014 level by 2020, and achieve a 75% reduction relative to 2014 by 2025. (HSC §39730.6)

2) Requires CalRecycle, in consultation with CARB, to adopt regulations to achieve those targets for reducing organic waste in landfills (SB 1383 regulations). These regulations include:

    a) Requirements for local jurisdictions to impose requirements on generators and authorize local jurisdictions to impose penalties for noncompliance with those requirements.

    b) Different levels of requirements and phased timelines for local jurisdictions based on different categorizations for those local jurisdictions.

    c) A process for local jurisdictions facing penalties for violations of these requirements to obtain relief by submitting a notice of intent to comply that includes an explanation of why they were unable to comply and a description of the proposed actions to come into compliance in a timely manner. (Public Resources Code (PRC) §42652.5)

3) Provides waivers for low population, elevation, and rural local jurisdictions. (14.C.C.R. § 18984.12)

4) Exempts local jurisdictions in possession of a specified rural exemption from the recovered organic waste product procurement targets until December 31, 2026. Beginning January 1, 2027, CalRecycle may provide these exempted rural jurisdictions an extended recovered organic waste product procurement target schedule. (PRC §42652.5)

This bill:

1) Exempts, until December 31, 2028, local jurisdictions from their organic diversion and methane emission reduction targets under SB 1383 if the local jurisdictions (including a city, county, a city and county, or a special district) have fewer than 7,500 people and dispose of fewer than 5,000 tons of solid waste per year.

2) Specifies that local jurisdictions that are exempt from SB 1383 requirements due to a low population waiver allowed under Section 18984.12 of Title 14 of the California Code of Regulations, as that section read on January 1, 2023, may still qualify for the exemption created in this bill until December 1, 2028.

3) Authorizes CalRecycle, beginning January 1, 2027, to extend this waiver.

Background

1) *Organic Waste and Short-Lived Climate Pollutants.* Organic material accounts for more than a third of California's waste stream: food waste alone accounts for approximately 18% of landfilled material, and yard waste accounts for another seven percent of the total waste stream. Organic waste is not only a high volume problem in landfills--it also has an oversized impact on climate. According to CalRecycle, methane emissions from decomposing organic waste in landfills account for approximately 20% of the State's total methane emissions. Methane is a climate "super pollutant" that is 84 times more potent than carbon dioxide over a 20-year timescale.

2) *Organic waste and methane emission reduction goals (SB 1383 Regulations).* In 2016, the Legislature passed SB 1383 (Lara, Chapter 395, Statutes of 2016), which established emission reduction targets for short-lived climate pollutants including hydrofluorocarbon gasses, anthropogenic black carbon, and methane. SB 1383 required ARB to approve and implement a comprehensive short-lived climate pollutant strategy that included a 2030 target of reducing methane emissions by 40% relative to 2014 levels. In order to achieve these reductions in methane emissions, SB 1383 set a goal of reducing landfill disposal of organic waste 50% by 2020 and 75% by 2025 from 2014 levels; and to rescue at least 20% of currently disposed of surplus food for meals by 2025. CalRecycle was given the authority to adopt regulations that would achieve these organic waste reduction requirements.

3) *Existing SB 1383 waivers.* The ambitious organic waste diversion goals established in SB 1383 necessitated an overhaul of California's organic waste

management infrastructure. In developing regulations, CalRecycle recognized that certain local entities face more significant problems in developing organic waste infrastructure than others. CalRecycle developed in regulations a set of SB 1383 waivers for certain jurisdictions. Waivers are available for local jurisdictions that are rural, high-elevation, or low-population. Jurisdictions can also apply for disaster and emergency waivers, and non-local entities and local education agencies that meet specific criteria can also apply.

According to CalRecycle, rural, high-elevation, and low-population jurisdictions have a small organic waste footprint and face significant challenges in collecting organic material, noting that it would be "exceedingly expensive for [these local jurisdictions] to comply with the collection service requirements."

In this regulation, CalRecycle developed different eligibility criteria for the different types of waivers. Cities and special districts are eligible for a low population waiver if they have a population of less than 7,500 people, and disposed of less than 5,000 tons of waste in 2014, as reported to CalRecycle's waste database in 2014. According to CalRecycle, 54 local entities are currently exempted under the rural, elevation, and low-population criteria.

Comments

1) *Purpose of Bill.* According to the author, "The De Luz Community Service District (DLCSD) is a special district in Riverside County with a population of approximately 2,000, which disposed of less than 1,350 tons of waste in 2014. CalRecycle initially communicated with DLCSD that it would qualify for the low population waiver under both of the above conditions, but DLCSD was later disqualified from the low population waiver because their waste tonnage was not reported to CalRecycle's DRS in 2014 by DLCSD.

   "As a special district, DLCSD was required to report waste tonnage to the County of Riverside, which it did, not CalRecylce's DRS. Only cities and counties were required to report to the DRS in 2014. DLCSD had no way to know in 2014 that only reporting to the county as required would later disqualify them from the low population waiver from the organic waste collection program five years later. The cost of implementing an organic waste disposal program is entirely unrelated to which entity DLCSD reported to. It is an arbitrary condition that exists solely for the convenience of CalRecycle."

2) *New low population waiver*. SB 613 provides a new definition for "low population" that differs slightly from the current definition developed in

CalRecycle's regulations. The current criteria to receive a "low population" waiver for cities and special districts is that the jurisdiction disposed of less than 5,000 tons of solid waste in 2014 as reported to CalRecycle's Disposal Reporting System, and the jurisdiction has a total population of less than 7,500 people. SB 613 removes the requirement that local jurisdictions need to have reported their waste tonnage back in 2014 to CalRecycle's Disposal Reporting System. SB 613 also authorizes CalRecycle (beginning Jan 1, 2027) to renew the waiver beyond December 31 2028.

3) *DLCSD falls through the cracks of current regulation.* The criteria for SB 1383 low population waivers currently defined in regulation are intended to capture local jurisdictions that have a small organic waste footprint and face disproportionate challenges to collecting organic material. However, the regulations were also developed with implementability in mind. Requiring local jurisdictions to have reported waste to CalRecycle's Disposal Reporting System in 2014 enables CalRecycle to evaluate whether those jurisdictions are on track for SB 1383 targets, which are held relative to 2014 waste data. However, while these are important procedural considerations, the result is that one or more local jurisdictions that align with the intent and face the same challenges as other low-population jurisdictions have fallen through the cracks.

Related/Prior Legislation

AB 1985 (R. Rivas, Chapter 344, Statutes of 2022) provided an exemption for rural jurisdictions and authorizes CalRecycle to create a delayed and ramping enforcement timeline for penalties for rural local jurisdictions to meet their organic waste procurement targets.

SB 613 (Laird, Chapter 508, Statutes of 2021) pushed back the timeline for penalties for local jurisdictions that have not complied with SB 1383 requirements until January 1, 2023.

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

According to the Assembly Appropriations Committee, CalRecycle estimates one-time costs of at least $150,000 (Integrated Waste Management Account (IWMA)) to re-open its SB 1383 low population regulations, as well as ongoing annual costs of $171,000 (IWMA) and one position beginning in fiscal year 2024-25 to implement the provisions of this bill

SUPPORT: (Verified 9/11/23)

California Special Districts Association

De Luz Community Services District

OPPOSITION: (Verified 9/11/23)

None received

ASSEMBLY FLOOR: 80-0, 9/11/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

Prepared by: Brynn Cook / E.Q. / (916) 651-4108
9/11/23 19:49:39

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

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

UNFINISHED BUSINESS

Bill No: SB 627
Author: Smallwood-Cuevas (D), et al.
Amended: 9/7/23
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 4/12/23
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas
NOES: Wilk

SENATE JUDICIARY COMMITTEE: 7-2, 4/25/23
AYES: Umberg, Allen, Ashby, Durazo, Laird, Min, Wiener
NOES: Wilk, Niello
NO VOTE RECORDED: Caballero, Stern

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 28-10, 5/30/23
AYES: Allen, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Glazer, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Archuleta, Caballero

ASSEMBLY FLOOR: Not available

SUBJECT: Displaced workers: notice: opportunity to transfer

SOURCE: California Labor Federation

DIGEST: This bill establishes the Displaced Worker Retention and Transfer Rights Act to, among other things: require a chain employer (100 or more establishments, as defined) to provide workers and their exclusive representative, if any, a displacement notice at least 60 days before the expected date of closure of a covered establishment; require a chain employer to provide workers the opportunity to transfer to a location of the chain within 25 miles of the closing establishment; and require chain employers to maintain a preferential transfer list and make job offers based on length of service.

Assembly Amendments remove the prohibition on a chain employer being able to close a covered establishment without first providing the 60-day displacement notice to instead specify that a chain employer shall provide the notice before the expected date of closure of the covered establishment; modify the collective bargaining exemption; and make other non-substantive grammatical and format changes.

ANALYSIS:

Existing law:

1) Requires certain hospitality and service industry employers, until December 31, 2024, to offer to rehire qualified former employees who were laid off due to the COVID-19 pandemic. Among other things, the provisions:

    a) Require employers to notify covered employees of specified enterprises of job openings, as specified, and allow them to accept or deny an offer.

    b) Prohibit employers from taking an adverse action against any laid-off employee for seeking to enforce these rights.

    c) Direct the Division of Labor Standards Enforcement (DLSE) to enforce these provisions and authorizes a laid off employee to file a complaint for violations with specified civil penalties prescribed for violations. (Labor Code §2810.8)

2) Requires, under the Displaced Janitor Opportunity Act, for janitorial or building maintenance contracts, a successor contractor(s) or subcontractor(s) to retain, for a 60-day transition employment period, employees of the terminated contractor and subcontractor, as specified. (Labor Code §1060-1065)

3) Requires, regarding grocery establishments, when a change in control (such as a sale or transfer) occurs, an incumbent grocery employer to maintain a

preferential hiring list of eligible workers identified and hire from that list for a period of 90 days, as specified. (Labor Code §2500-2522)

4) Requires, regarding public transit service contracts and contracts for the collection and transportation of solid waste, a bidder to declare as part of the bid (and in exchange for a 10-percent bid preference) whether or not they will retain employees of the prior contractor/subcontractor for a 90-day transition period if awarded the contract. (Labor Code §1070-1076)

5) Establishes within the Department of Industrial Relations (DIR) and under the direction of the Labor Commissioner (LC), the Division of Labor Standards Enforcement (DLSE) tasked with administering and enforcing labor code provisions concerning wages, hours and working conditions. (Labor Code §56)

6) Prohibits, under the Worker Adjustment and Retraining Notification (WARN) Act, an employer from ordering a mass layoff, relocation, or termination at a covered establishment, as defined, unless 60 days before the order takes effect, the employer gives written notice to employees and specified departments and officials. (29 U.S.C. Sec. 2101 et seq.) (Labor Code §1400-1413)

This bill:

1) Defines "chain" as a business in CA consisting of 100 or more establishments nationally that share a common brand and are owned and operated by the same parent company.

2) Defines "chain employer" as any person, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, owns or operates a chain and employs or exercises control over the wages, hours, or working conditions of workers. Provides that a "chain employer" does not include a franchisee that owns and operates fewer than 100 establishments but does include those that own and operates 100 or more establishments nationally under an agreement with one franchisor.

3) Requires a chain employer to provide each covered worker and their exclusive representative, if any, a displacement notice at least 60 days before the expected date of closure of a covered establishment containing specified information regarding the closure and their transfer rights per this bill. Requires the notice to be given in one of several specified ways in both English and the language understood by the majority of the workers.

4) Specifies that a chain employer is not required to comply with the displacement notice requirements if the closure is necessitated by a physical

calamity or act of war or the chain employer was actively seeking capital or business to avert the closure, as specified.

5) Requires chain employers, for one year after the closure of a covered establishment, to provide to all covered workers the opportunity to transfer to a location of the chain within 25 miles of the covered establishment subject to closure as positions become available.

6) Specifies that the above requirement does not require a chain employer to alter or terminate the employment of any worker, fail to promote any worker, or displace any worker where the opportunity to transfer is offered.

7) Requires the chain employer to maintain a preferential transfer list of covered workers that reflects their date of hire and position at the time of the closure and requires the chain employer to make offers of transfer to covered workers in order of greatest length of service based on the worker's date of hire.

8) Requires chain employers, within five business days of a position becoming available at another location of the chain that is within 25 miles of the closing establishment, to offer covered workers all available positions for which they are qualified, as specified.

9) Requires the employer to make the transfer offer in writing, either by hand or to their last physical address, and by email and text message if available.

10) Grants a covered worker with at least five business days, as defined, from the date of receipt, in which to accept or decline the offer.

11) Authorizes chain employers to make simultaneous, conditional offers of employment to covered workers with a final offer of employment conditioned on application of the preferential transfer list.

12) Requires chain employers to retain specified employee records for at least three years, commencing on the date of the written notice regarding the closure, for each covered worker, including all communication records on offers made, as specified.

13) Provides that a transfer shall be considered complete when the covered worker accepts the offer of employment within 10 days of the offer of transfer.

14) Specifies that a chain employer that is a franchisee that owns or operates 100 or more establishments nationally shall only be required to make an offer of

transfer to a location within 25 miles of the covered location that the franchisee owns and operates under an agreement with one franchisor.

15) Prohibits a chain employer from refusing to employ, terminate, reduce in compensation, or otherwise take any adverse action against any covered worker for seeking to enforce these rights, as specified.

16) Grants the DLSE exclusive jurisdiction to enforce these provisions and specifies that they may be enforced only as follows:

    a) A laid-off worker may file a complaint with the DLSE for violations of these provisions and may be awarded any or all of the following, as appropriate:

        i) Transfer and reinstatement rights.

        ii) Front pay or back pay for each day during which the violation continues, calculated at a rate of pay as specified.

        iii) Value of the benefits the worker would have received.

    b) Specifies that no criminal penalties shall be imposed for violations.

    c) Specifies that any chain employer, agent or other person who causes or violates these provisions, shall be subject to a civil penalty, as specified.

    d) Requires the LC to enforce these provisions, including investigating an alleged violation and ordering appropriate relief, as specified.

    e) Requires these penalties and damages to be recovered by the LC, deposited into the Labor and Workforce Development Fund, and paid, upon appropriation by the Legislature, to the worker.

    f) In an action brought by the LC, the court may issue preliminary and permanent injunctive relief to vindicate the rights of workers.

    g) Provides that in any administrative or civil actions brought, the LC or court, shall award interest on all amounts due and unpaid, as specified.

    h) Provides that these remedies, penalties, and procedures are cumulative.

17) Authorizes the DLSE to promulgate and enforce rules and regulations, and issue determinations and interpretations, consistent with and necessary for the implementation of these provisions.

18) Specifies that parties subject to these provisions may provide, by collective bargaining agreement, that the agreement supersedes these requirements, in whole or in part, if the waiver is explicitly set forth in the agreement in clear and unambiguous terms.

19) Specifies that these provisions shall not be construed to limit a worker's right to bring legal action for wrongful termination.

20) Provides that these provisions do not preempt any city, county, or city and county ordinances that provide equal or greater protection to workers.

21) Specifies that these provisions are severable and if any provision or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect.

Background

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for background information and information on prior and related legislations.]

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

According to the Assembly Appropriations Committee:

1) Ongoing annual costs of approximately $1.4 million to DLSE to enforce this bill's provisions on behalf of covered workers (Labor Enforcement and Compliance Fund).

2) Annual cost pressures (General Fund (GF) or Trial Court Trust Fund) of an unknown amount, potentially up to $150,000, to the courts in additional workload, as this bill allows DLSE to pursue enforcement administratively or through the courts by filing a civil action. It is unclear how many actions may be filed statewide, but the estimated workload cost of one hour of court time is $1,000. Although courts are not funded on the basis of workload, increased pressure on staff and the TCTF may create a need for increased court funding from the GF to perform existing duties. The 2023-24 state budget agreement includes $105.1 million in ongoing GF revenue to continue backfilling the TCTF for expected revenue declines.

SUPPORT: (Verified 9/13/23)

Attorney General Rob Bonta
California Labor Federation (source)
Alameda Labor Council
American Federation of State, County and Municipal Employees, AFL-CIO
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Faculty Association
California Federation of Teachers, AFL-CIO
California IATSE Council
California Nurses Association
California Rural Legal Assistance Foundation, INC.
California State Council of Service Employees International Union
California State Legislative Board, Sheet Metal, Air, Rail and Transportation Workers – Transportation Division
California Teamsters Public Affairs Council
Central Coast Labor Council
Contra Costa Central Labor Council
Elevator Constructors Local 8
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
Los Angeles Alliance for A New Economy
Los Angeles County Federation of Labor, AFL-CIO
North Bay Labor Council
Pillars of the Community
Sacramento Central Labor Council, AFL-CIO
San Diego Black Workers Center
TechEquity Collaborative
Unemployed Workers United
UNITE HERE, AFL-CIO
United Food and Commercial Workers, Western States Council
Utility Workers Union of America
Warehouse Worker Resource Center
Workers United, Western States Regional Joint Board
One individual

OPPOSITION: (Verified 9/13/23)

Acclamation Insurance Management Services
Alhambra Chamber of Commerce
Allied Managed Care

Association of California Healthcare Districts
Brea Chamber of Commerce
California Association of Sheet Metal & Air Conditioning Contractors National
California Association of Winegrape Growers
California Attractions and Parks Association
California Bankers Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Employment Law Council
California Grocers Association
California Hotel & Lodging Association
California Lodging Industry Association
California Manufactures & Technology Association
California Restaurant Association
California Retailers Association
California State Council of the Society for Human Resource Management
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Coalition for Small and Disabled Veteran Businesses
Coalition of California Chambers – Orange County
Construction Employers' Association
Corona Chamber of Commerce
Danville Area Chamber of Commerce
Family Business Association of California
Flasher Barricade Association
Folsom Chamber of Commerce
Fontana Chamber of Commerce
Fresno Chamber of Commerce
Gilroy Chamber of Commerce
Glendora Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Hollywood Chamber of Commerce
Independent Lodging Industry Association
La Canada Flintridge Chamber of Commerce
Lodi Chamber of Commerce
National Federation of Independent Business

Oceanside Chamber of Commerce
Official Police Garage Association of Los Angeles
Orange County Business Council
Palos Verdes Peninsula Chamber of Commerce
Paso Robles Chamber of Commerce
Roseville Area Chamber of Commerce
San Juan Capistrano Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santee Chamber of Commerce
Simi Valley Chamber of Commerce
South County Chambers of Commerce
Templeton Chamber of Commerce
Torrance Area Chamber of Commerce
Tulare Chamber of Commerce
Vacaville Chamber of Commerce
Vista Chamber of Commerce
Westside Council Chamber of Commerce
Yorba Linda Chamber of Commerce

ARGUMENTS IN SUPPORT: According to the sponsors of this bill, "Not only do companies use store closures to deter workers from advocacy, but they often close stores in low-income and communities of color rather than more affluent areas. … This bill will discourage employers from using store closures in a discriminatory or retaliatory manner by giving those workers opportunities to work in other stores."

ARGUMENTS IN OPPOSITION: A coalition of employers are opposed arguing that it seeks to micromanage the rehire process with several provisions delaying the hiring and increasing costs on employers including by, among others:

- Forcing an employer to repeatedly offer available positions to qualified employees, no matter how many times they have turned offers down, failed to respond, or explicitly declined previous offers to return to work.
- Essentially eliminating the use of severance agreements because no employer subject to such a retention right would have any reason to offer one.
- Forcing an employer to send notices to all eligible employees for positions and then wait five business days before moving on to other employees.
- Forcing employers to hire based on seniority, not skill.

- 25 mile radius requirement is arbitrary. A 25 mile distance across Los Angeles is significantly different than 25 miles across the Central Valley.

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
9/13/23 20:59:52

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

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

UNFINISHED BUSINESS

Bill No: SB 628
Author: Hurtado (D)
Amended: 9/1/23
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 4/17/23
AYES: Alvarado-Gil, Ochoa Bogh, Menjivar, Wahab
NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones
NO VOTE RECORDED: Seyarto

SENATE FLOOR: 35-2, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NOES: Jones, Niello
NO VOTE RECORDED: Dahle, Grove, Seyarto

ASSEMBLY FLOOR: Not available

SUBJECT: State Healthy Food Access Policy

SOURCE: Author

DIGEST: This bill declares that it is the established policy of the state that every human being has the right to access sufficient, affordable, and healthy food and requires all relevant state agencies to consider this policy when revising, adopting, or establishing policies, regulations, and grant criteria when those policies,

regulations, and criteria are pertinent to the distribution of sufficient affordable food.

Assembly Amendments define the term "food insecurity", remove the requirement that California Department of Social Services (CDSS) submits a report to the Legislature with specified data and in consultation with other state agencies by January 1, 2026; and remove the January 1, 2030 repeal date from this bill.

ANALYSIS:

Existing law:

1) Creates the CDFA and requires it to promote and protect the agricultural industry of the state. Further requires CDFA to seek to enhance, protect, and perpetuate the ability of the private sector to produce food and fiber in a way that benefits the general welfare and economy of the state. Requires CDFA to seek to maintain the economic well-being of agriculturally dependent rural communities in this state. (Food and Agriculture Code (FAC) 100 et seq.)

2) Creates the DOC and requires that the work department shall be divided into at least the California Geological Survey, the Geologic Energy Management Division, the Division of Land Resource Protection, and the Division of Mine Reclamation. (Public Resources Code 600 et seq.)

3) Creates the CDSS and places within it the authority to administer the CalFresh and other state-operated social services programs. (WIC 10550 et seq.)

This bill:

1) States legislative findings and declarations regarding food security, how climate change threatens food production and how the COVID-19 pandemic exacerbates hunger for many.

2) Declares it the established policy of the state that every human being has the right to access sufficient affordable and healthy food.

3) Requires all relevant state agencies, including, but not limited to, CDSS, CDFA, State Department of Education (CDE), the California Department of Health Care Services (DHCS), and the State Department of Public Health (CDPH) to consider this state policy when revising, adopting, or establishing policies, regulations, and grant criteria, when those policies, regulations, and criteria are pertinent to the distribution of sufficient affordable food.

4) Specifies that the bill does not expand any obligation of the state to provide food or nutrition assistance or to require the expenditure of additional resources to develop food infrastructure.

5) Defines "food insecurity" to mean the occasional or constant lack of access to the food one needs to live a healthy life and the uncertainty of being able to acquire enough food to meet the needs of an individual or household due to insufficient money or other resources.

Background

Hunger. Hunger is a statewide problem, one that can affect people from all backgrounds. While California is the greatest food-producing state in the country, about 10 million of California's children and adults face food insecurity, according to the California Association of Food Banks. They also report that, on average, one out of every four Californians does not know where their next meal will come from and Black and Latinx families with children experience greater levels of hunger.

Hunger is a national problem. Many Americans, as exposed by the COVID-19 pandemic, are just one job loss, unexpected car maintenance, accident, or medical crisis away from food insecurity. Food insecurity is the "lack of consistent access to enough food for every person in a household to live an active, healthy life. This can be a temporary situation for a family or can last a long time." The U.S. Department of Agriculture (USDA) Economic Research Services found that a little over 10 percent or 13.5 million American households were food insecure throughout 2021. The most recent data on food insecurity from the USDA found that in 2021:

- Nearly 20 percent of African America individuals lived in a food insecure household, and they are almost three times as likely to face hunger as white individuals. Twenty-two percent of African American children lived in food insecure households and were almost three times more likely to face hunger than white children.

- Latinos were 2.5 times more likely to experience food insecurity than white individuals, with 1 in 6 Latinx individuals experienced food insecurity. Eighteen and a half percent of Latinx children lived in food insecure households and were twice as likely as white children to face hunger.

Hunger takes a severe toll on seniors' health and nutrition - putting them at risk for chronic health conditions like depression, asthma, and diabetes. Some seniors are

more likely to face hunger due to racial and economic inequality. Seniors are more likely to face hunger if they identify as Black, Latino, or Native America; have lower incomes; or have a disability. Feeding America shares the following national statistics on hunger by subpopulation:

- The rate of hunger among seniors aged 60 and older has increased by 38 percent since 2001.
- 63 percent of senior households served by the Feeding America network are forced to choose between food and medical care.
- Households served by the Feeding America network that include an adult age 50 or older are at an increased risk of having someone with a chronic health condition, including diabetes (41 percent) and high blood pressure (70 percent).
- In 2019, 2.2 million households in rural communities faced hunger.

Because of limited financial resources, those who are food insecure sometime use cost cutting measures to stretch budgets that are harmful to their health, such as: engaging in cost-related medication underuse or non-adherence; postponing or declining medical care; forgoing the foods needed for special medical diets; purchasing a low-cost diet that relies on energy-dense, but nutrient-poor, foods; diluting or rationing infant formula; and making trade-offs between food and other basic necessities, like housing, utilities, transportation. Moreover, the impacts of childhood hunger are well known. Children who live in households experiencing food insecurity are at higher risk of health, academic, behavioral, and emotional problems than those who are not.

Food Assistance Programs. There are a number of food assistance programs operated throughout the state and administered by the California Departments of Aging, CDE, CDSS, and CDPH. The following is a brief description of some of the largest and most well-known programs.

CalFresh, California's version of federal SNAP, provides monthly food benefits to qualified low-income individuals and families to assist with the purchase of the food they need to maintain adequate nutrition levels.

CDE administers two federally funded meal programs that target school age children, the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). Both programs provide free or reduced priced healthy meals to income eligible students. Beginning in the 2022-23 school year, California became the first state to implement and fully fund a Universal Meals Program (UMP) for

school children grades PK-12. The UMP allows for all students who request a meal to be able to receive meals regardless of their eligibility for NSLP or SBP. Students may receive up to two free meals during the school day.

CDPH administers a federally-funded program called the California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). WIC provides, at no cost to participants, supplemental foods, nutrition education, and health care referrals to low-income pregnant, breastfeeding and postpartum women, infants, and children up to age five who are determined to be at nutritional risk.

There are numerous nutrition programs that provide meals for older adults. These services are typically offered at congregate nutrition sites or through home delivered meals. Both congregate nutrition and home delivered meals serve broad populations, with preference given to those in the greatest economic or social need. Federally funded Home-Delivered Nutrition Programs, commonly referred to as Meals on Wheels, is a longstanding program that delivers healthy meals to older adults who cannot go out and purchase food and/or prepare meals in their homes.

This bill requires all relevant state agencies, including, but not limited to, CDSS, CDFA, CDE, and CDPH to consider this state policy when revising, adopting, or establishing policies, regulations, and grant criteria, when those policies, regulations, and criteria are pertinent to the distribution of sufficient, affordable, and adequate food.

Barriers to Food Assistance. Obtaining food assistance typically requires paperwork, which is often cited as the largest barrier to accessing the CalFresh and other assistance programs. There are many ways to streamline bureaucracies, and, in recent years, work has been done to identify and eliminate barriers to accessing nutrition assistance. This work includes enhancing county guidance to increase their implementation of online and phone applications, making recipients who are eligible for Medi-Cal categorically eligible for CalFresh, removing asset tests and finger imaging requirements, integrating CalFresh with other social service programs, including California Work Opportunity and Responsibility to Kids (CalWORKs), and WIC. California also eliminated the “cashout” policy, which made CalFresh newly available to about 500,000 SSI/SSP recipients. Most recently, California became the first state, beginning in the 2022-23 school year, to provide two free meals to all public school aged children who request them.

About one in eight (12 percent) of Californians receive CalFresh. However, historically, California’s CalFresh participation rate has been at or near the lowest in the nation, with only about 70 percent of eligible recipients enrolled in CalFresh.

This means about 30 percent of those eligible are not receiving CalFresh. According to the most recent pre-pandemic data, only 19 percent of eligible older Californians were enrolled in CalFresh, which is the lowest rate of any state in the nation. While numerous factors contribute to California's low take up rate for CalFresh, two commonly cited reasons for low enrollment are the complicated enrollment and recertification processes, especially for people who are elderly or disabled. Additional barriers to senior participation in CalFresh include social and linguistic isolation, lack of knowledge about the benefit, confusion about eligibility requirements, difficulty filling out an application and stigma.

For the immigrant community poor translation services and misinformation on eligibility have also been identified as barriers to food assistance. Churn, the circumstance in which people become dis-enrolled and have to reapply for CalFresh due to missing paperwork or other program requirements, is also a persistent issue. During the pandemic, churn was decreased as the state and federal government's required that people not be discontinued from assistance programs such as CalFresh and Medi-Cal. However, as we move back to pre-pandemic policies, there will likely be an increased number of people losing their assistance benefit again, although they are eligible.

People who live in rural areas often face hunger at higher rates, in part because of the unique challenges living remotely presents. These challenges include lack of transportation when the nearest grocery store, food pantry, or food bank can be hours away, job opportunities that are more concentrated in low-wage industries, and higher rates of unemployment and underemployment.

Related/Prior Legislation

SB 600 (Menjivar, 2023) requires CDSS, upon an appropriation, to create the CalFresh Minimum Benefit Program to provide additional state-funded CalFresh nutrition benefits to all eligible households who receive a minimum CalFresh monthly benefit, as provided. Some of the provisions of this bill were included in the 2023 Budget Bill. The bill was held in the Assembly Human Services Committee.

SB 245 (Hurtado, 2023) removes the 55 years and older age limit for noncitizens eligible for the California Food Assistance Program (CFAP) if the noncitizens satisfy all eligibility criteria for participation in CalFresh except any requirements related to immigration status. The bill was held the Assembly Human Services Committee.

AB 311 (Santiago, 2023) is identical to SB 245 (Hurtado, 2023). The bill was held in the Senate Human Services Committee.

SB 187 (Committee on Budget and Fiscal Review, Chapter 50, Statutes of 2022) removed the requirement that CFAP applicants provide a social security number if they do not have one and eliminates the work requirement for CFAP participants when the CFAP expansion is implemented.

SB 108 (Hurtado, 2021) like SB 628 (2023), would have declared that it is the established policy of the state that every human being has the right to access sufficient, affordable, and healthy food, and would have required state agencies to consider that policy as provided. The bill was held in the Assembly Appropriations Committee.

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

According to the Assembly Appropriations Committee, costs of an unknown amount, but likely minor, to various state agencies to consider the right to food policy while revising or designing regulations, grant programs or other policies that impact the distribution or availability of food.

SUPPORT: (Verified 9/13/23)

California Catholic Conference
Catholic Charities San Francisco, Marin, San Mateo Counties
Community Action Partnership of Kern
National Association of Social Workers, California Chapter

OPPOSITION: (Verified 9/13/23)

None received

Prepared by: Bridgett Hankerson / HUMAN S. / (916) 651-1524
9/13/23 20:39:14

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

SENATE RULES COMMITTEE SB 635
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 635
Author: Menjivar (D) and Portantino (D), et al.
Amended: 9/8/23
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

SENATE HEALTH COMMITTEE: 12-0, 9/13/23 (Pursuant to Senate Rule 29.10)
AYES: Eggman, Nguyen, Glazer, Gonzalez, Grove, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener

ASSEMBLY FLOOR: 78-0, 9/11/23 - See last page for vote

SUBJECT: Health care coverage: hearing aids

SOURCE: Children Now
Let California Kids Hear

DIGEST: This bill requires a health plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2025, to include coverage for hearing aids and related services for all enrollees and insureds under 21 years of age, if medically necessary. Limits the maximum required coverage amount to $3,000 per individual hearing aid, and prohibits hearing aids covered from being subject to a coinsurance, deductible or copayment requirement, or, subject to financial or treatment limitations, including a dollar limit set below $3,000 per individual hearing aid.

Assembly Amendments delete the contents of this bill as it was passed by the Senate and replace it with a requirement that state regulated health insurance cover hearing aids and related services for enrollees and insureds under 21 years of age, with a maximum dollar limit of $3,000 per individual hearing aid.

ANALYSIS:

Existing law:

1) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Services Plan Act of 1975; the California Department of Insurance (CDI) to regulate health and other insurers; Covered California as California's health benefit exchange for individual and small business purchasers as authorized under the federal Patient Protection and Affordable Care Act (ACA); and, the Department of Health Care Services (DHCS) to administer the Medi-Cal program, under which low-income individuals, including children are eligible for health coverage. [HSC §1340, et seq., INS §106, et seq., GOV §100500 -100522, 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 ten ACA mandated benefits. Requires non-grandfathered individual and small group plan contracts and insurance policies to cover EHBs. [HSC §1367.005 and INS §10112.27]

3) Establishes California Children Services (CCS), administered by DHCS, under which individuals under the age of 21 who have eligible medical conditions established in regulation and meet financial requirements, are eligible to receive medically necessary services and treatments. [HSC §123800, et seq.]

4) Establishes the Hearing Aids Coverage for Children Program (HACCP). HACCP covers hearing aids and related services for children under the age of 21, who have a household income of up to 600% of the Federal Poverty Level (FPL), which is approximately $166,000 annually for family of four, and who are not otherwise eligible for Medi-Cal or CCS, or who do not have insurance coverage, which includes a person who has health insurance coverage but not coverage for hearing aids, or, a person with health insurance coverage that covers hearing aids but with a limit of $1,500 or less. [Budget Act of 2023]

This bill:

1) Requires a health plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2025, to include coverage for hearing aids for all enrollees and insureds under 21 years of age, if medically necessary. Requires the covered services to be provided by a contracted provider, unless the contract

or policy allows for out-of-network coverage. Requires for children under five years of age, a contracted provider to include a pediatric audiologist.

2) Limits the maximum required coverage amount under this bill to $3,000 per individual hearing aid. Permits an enrollee or insured to choose to purchase a hearing aid that exceeds the maximum coverage amount and be responsible for the difference between the cost of the hearing aid and the maximum coverage amount.

3) Prohibits hearing aids covered under this bill from being subject to a deductible, coinsurance or copayment requirement, or, subject to financial or treatment limitations, including a dollar limit that is set below $3,000 per individual hearing aid.

4) Prohibits, if a contract is a "high deductible health plan" under the definition set forth in federal law, from imposing cost-sharing under this bill, unless not applying cost-sharing would conflict with federal requirements for high deductible health plans.

5) Requires coverage for hearing aids to include an initial assessment, new hearing aids at least once every four years, new earmolds, new hearing aids if alterations to existing hearing aids cannot meet the needs of the enrollee, a new hearing aid if the existing one is no longer working, and fittings, adjustments, auditory training, and maintenance of the hearing aids. Prohibits the new hearing aid limit from applying if alterations to existing hearing aids cannot meet the needs of the enrollee or insured or an existing hearing aid is no longer working.

6) Defines "hearing aid" as an electronic device designed to aid or compensate for impaired human hearing and any parts, attachments, or accessories, including earmolds, but excluding batteries and cords. This includes both hearing aids traditionally worn behind the ear and nonimplanted auditory osseointegrated devices.

7) Exempts an accident-only, specified disease, hospital indemnity, Medicare supplement policy or specialized health plan contract or specialized health insurance policy that covers dental or vision benefits from this bill.

8) Exempts Medi-Cal managed care plans that contract with DHCS. Requires these plans to comply with existing Medi-Cal requirements regarding hearing aid coverage.

9) Requires services described in this bill to be covered by a nongrandfathered health plan contract or health insurance policy in the individual and small group market only to the extent there is an appropriation to cover the cost of the services for plans offered through Covered California, if it is determined that federal law requires the state to defray the costs of the benefits.

Comments

1) *Author's statement.* According to the author, numerous experts agree that pediatric hearing loss is considered a developmental emergency requiring timely intervention to prevent permanent delays. These preventable consequences are not only devastating for children and family; they are costly to society. California requires hospitals to screen all newborns to identify those that are Deaf or Hard of Hearing (DHH). Despite California identifying nearly all DHH newborns there remains a lack of access to hearing aids once they have been identified. Since private health insurance plans are not required to cover hearing aids for kids, only one in ten families in California have some coverage. The lack of comprehensive coverage means care can be unaffordable, leaving children without access to hearing aids and services that support their development. Over 30 states in the United States require coverage for children's hearing aids through commercial plans and/or the state exchange. California should follow suit. California has tried to address this issue through HACCP launched by DHCS on July 1, 2021. However, to date HACCP has only served 225 of the 7,000 eligible youth. Few pediatric providers are participating due to historically low reimbursement rates and high administrative burdens creating poor geographic coverage and segmented care. California is not alone in these challenges as Georgia tried a similar program and failed, ultimately passing an insurance mandate in 2018. The author indicates that the estimated cost to the state associated with this bill would benefit 20,000 children that would be offset by the $13.4 million for HACCP.

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

According to the Assembly Appropriations Committee:

- According to the California Health Benefits Review Program, California Public Employees' Retirement System (CalPERS) premiums would increase by $594,000. Approximately 60% of these premiums are paid by the state (Public Employees Health Care Fund).

- Possible cost pressures of $11 million to Covered California if the proposed coverage exceeds EHBs (General Fund).

- CDI estimates costs of $22,000 in fiscal year 2024-25 (Insurance Fund).

- DMHC anticipates minor and absorbable costs.

SUPPORT: (Verified 9/12/23)

Children Now (co-source)
Let California Kids Hear (co-source)
AltaMed
American Academy of Pediatrics, California
Association of California School Administrators
Association of Regional Center Agencies
California Academy of Audiology
California Association for Supervision and Curriculum Development
California Children's Hospital Association
California Children's Trust
California Educators of the Deaf
California Faculty Association
California Federation of Teachers AFL-CIO
California Hands & Voices
California Health+ Advocates
California Medical Association
California School Nurses Organization
California School-Based Health Alliance
CCHAT Sacramento (Children's Choice for Hearing and Talking)
Center for Early Intervention on Deafness
Children’s Hospital of Orange County
Children's Specialty Care Coalition
Deaf and Hard of Hearing Service Center
Disability Rights California

First 5 Association of California
First 5 San Mateo County
First 5 Santa Clara County
First 5 Santa Cruz County
Health Access California
Healthier Kids Foundation
Hearing Healthcare Providers/California
Hearing Loss Association of America, California State Association
House Children's Hearing Center
Jakara Movement
John Tracy Clinic
Keck School of Medicine, University of Southern California
Kern County Superintendent of Schools Office
LA Best Babies Network
Latino Coalition for a Healthy California\
Loma Linda University Health
Lucile Packard Children's Hospital, Stanford Children's Health
Maternal and Child Health Access
March of Dimes
National Association of Social Workers, California Chapter
National Health Law Program
No Limits for Deaf Children and Families
Norcal Services for Deaf & Hard of Hearing
Nurse - Family Partnership
Pacific Neuroscience Institute
Project Talk
Public Advocates INC.
Rady Children's Hospital
SELPA Administrators of California
Small School Districts' Association
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
Tahoe Family Hearing Clinic
The Children's Partnership
The Los Angeles Trust for Children's Health
United Ways of California
USCF Benioff Children's Hospital Oakland
Valley Children's Healthcare
Vision Y Compromiso
Weingarten Childrens Center
Western Center on Law & Poverty, Inc.

One individual

OPPOSITION: (Verified 9/12/23)

Department of Finance

ARGUMENTS IN SUPPORT: Children Now and Let California Kids Hear, cosponsors of this bill, write unfortunately, after two years, with $32.8 million budgeted (one-third of that for administration), only 225 of the estimated 7,000 children who need assistance to afford hearing aids have benefited from HACCP. Few pediatric providers are participating due to historically low reimbursement rates and high administrative burdens, creating poor geographic coverage, segmented care, and barriers that are difficult to overcome. California is not alone in these challenges; Georgia tried a similar program and failed, ultimately passing a mandate in 2018. The cosponsors indicate nearly four in ten HACCP service requests are not approved and the provider network is very limited. Furthermore, to address prior concerns from the Administration regarding age discrimination, our organizations along with Health Law sought clarification from CCIIO. The cosponsors indicate CCIIO confirmed that mandating coverage for children's hearing aids would not violate age-discrimination laws. Additionally, they believe CHBRP's abbreviated report overstates the number of impacted deaf and hard-of-hearing children and youth as well as an inflated cost estimate to the state. House Children's Hearing Center writes children who need hearing aids are a vulnerable population, and lack of early treatment has negative and permanent consequences. As Dr. Dylan Chan MD, PhD, Associate Professor of Pediatric Otolaryngology at the University of California, San Francisco has succinctly put it, "Pediatric hearing loss is considered a developmental emergency requiring timely intervention to prevent permanent delays. These preventable consequences are not only devastating for the child and family; they are costly to society." Children who get started with hearing aids within 3 to 6 months of age can develop at the same rate as their hearing peers, demonstrating the importance of early intervention. California spends over $400 million per year on education for Deaf or Hard of Hearing students, which could be dramatically reduced if children have timely intervention.

ARGUMENTS IN OPPOSITION: DOF is opposed to this bill because its provisions were considered during the budget process and were ultimately not included in the 2023 Budget Act. This bill appears partially duplicative of existing efforts through HACCP. Also, the bill requirements exceed the state's benchmark plan for EHBs and require the state to defray significant General Fund costs on an ongoing basis. Additionally, this bill results in increased health care premiums due

to new requirements for condition-specific provisions, which may create disparities and inequities for individuals that suffer from other health conditions and potentially increases healthcare costs for all enrollees.

CONCERNS: The Association of California Life and Health Insurance Companies, America's Health Insurance Plans, and California Association of Health Plans write that the benchmark plan selected by the Legislature in California did not include hearing aids. CHBRP has confirmed that coverage for hearing aids and associated services mandated by this proposal would exceed EHBs, and therefore trigger the ACA requirement that the state defray the cost of additional benefit coverage for enrollees in qualified health plans in Covered California. CHBRP estimates that this bill could translate to a state-responsibility of $11,268,000 annually. It's also important to note that this would be the first time since the passage of the ACA that California could pass a coverage mandate that exceeds the EHBs. Health plans and insurers are concerned about the precedent that this action may set, which could trigger a slew of new mandates to be introduced that exceed the EHBs, requiring more state funding to defray these costs. Additionally, this mandate is projected to cost enrollees approximately $52 million in increased premiums. Health plans and insurers are also concerned about this bill's potential to harm affordability for small businesses and individual market consumers.

ASSEMBLY FLOOR: 78-0, 9/11/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Essayli, Jones-Sawyer

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
9/13/23 17:09:35

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

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

UNFINISHED BUSINESS

Bill No: SB 639
Author: Limón (D), et al.
Amended: 9/8/23
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 4/12/23
AYES: Eggman, Nguyen, Glazer, Gonzalez, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NO VOTE RECORDED: Grove

SENATE FLOOR: 36-0, 4/20/23 (Consent)
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Grove, Hurtado, Padilla, Stern

ASSEMBLY FLOOR: Not available

SUBJECT: Alzheimer's disease

SOURCE: Alzheimer's Association State Policy Office

DIGEST: This bill renames Alzheimer's diagnostic and treatment centers as "diagnostic hubs" and revises and expands the functions of these entities. This bill also revises legislative intent to specify that satellite locations that will serve regions without a postsecondary higher educational institution with a medical center, which will serve as diagnostic hubs for their regions, are also encouraged to be established.

Assembly Amendments:

1) Add the following to the functions of the diagnostic hubs:

a) To collaborate with the Department of Health Care Services (DHCS) in its effort to promote Dementia Care Aware and in its effort to continue and expand upon its cognitive health assessment training, as specified; and,
b) To provide information to persons diagnosed with dementia and their care partners about home- and community-based services, including area agencies on aging, caregiver resource centers, and aging and disability resource connections.

2) Add the following to the functions of the diagnostic hubs:

a) To collaborate with the Department of Health Care Services (DHCS) in its effort to promote Dementia Care Aware and in its effort to continue and expand upon its cognitive health assessment training, as specified; and,
b) To provide information to persons diagnosed with dementia and their care partners about home- and community-based services, including area agencies on aging, caregiver resource centers, and aging and disability resource connections.

3) Require a state department or diagnostic hub to obtain and maintain approval from DHCS to host any Dementia Care Aware materials on websites not owned by DHCS.

4) Require other state departments and diagnostic hubs, if DHCS grants that approval, to submit reports, as specified, describing the use of Dementia Care Aware materials.

5) Make implementation of this bill subject to an appropriation by the Legislature for its purposes.

6) Require provisions relative to Dementia Care Aware to be implemented only to the extent any necessary federal approvals are obtained, and federal financial participation under the Medi-Cal program is available and is not otherwise jeopardized.

7) Permit DHCS, for purposes of implementing provisions relative to Dementia Care Aware and for purposes of an existing Medi-Cal benefit that pro\vides for annual cognitive health assessments for those over 65 years of age, to enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis. Exempt these contracts from specified existing public contracting law.

8) Make other technical, clarifying changes.

9) Require a state department or diagnostic hub to obtain and maintain approval from DHCS to host any Dementia Care Aware materials on internet websites not owned by DHCS. Requires other state departments and diagnostic hubs, if DHCS grants that approval, to submit reports, as specified, describing the use of Dementia Care Aware materials.

10) Require provisions relative to Dementia Care Aware to be implemented only to the extent any necessary federal approvals are obtained, and federal financial participation under the Medi-Cal program is available and is not otherwise jeopardized.

11) Make implementation of this bill subject to an appropriation by the Legislature for its purposes.

12) Permit DHCS, for purposes of implementing provisions relative to Dementia Care Aware and for purposes of an existing Medi-Cal benefit that pro\vides for annual cognitive health assessments for those over 65 years of age, to enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis. Exempt these contracts from specified existing public contracting law.

13) Make other technical, clarifying changes.

ANALYSIS:

Existing law:

1) States the intent of the Legislature to encourage the establishment of geographically dispersed diagnostic and treatment centers for Alzheimer's disease within every postsecondary higher educational institution with a medical center, and to encourage research to discover the cause of, and a cure for, Alzheimer's disease. [HSC §125275 (b)]

2) Permits any postsecondary higher educational institution with a medical center to establish diagnostic and treatment centers for Alzheimer's disease subject to the California Department of Public Health (CDPH) grants review process, and, requires CDPH to administer grants for this purpose, as specified. [HSC §125280]

3) Requires the functions of the diagnostic and treatment centers to be designed to:

    a) Provide diagnostic and treatment services and improve the quality of care to victims of Alzheimer's disease;

b) Increase research by faculty and students in discovering the cause of, and a cure for, Alzheimer's disease;
c) Provide training, monitoring, consultation, and continuing education to the families of those who are affected by Alzheimer's disease; and,
d) Increase the training of health care professionals with respect to Alzheimer's disease and other acquired brain impairments to the extent that the centers have the requisite expertise. [HSC §125275 (c)]

This bill:

1) Renames diagnostic and treatment centers as "diagnostic hubs" and revises the functions of these entities. Revises legislative intent to specify that satellite locations that will serve regions without a postsecondary higher educational institution with a medical center, which will serve as diagnostic hubs for their regions, are also encouraged to be established.

2) Revises design of the diagnostic hubs as follows:

   a) Deletes the requirement that the hubs increase research to discover the cause of and cure for Alzheimer's disease and provide training, monitoring, consultation, and continuing education to families;
   b) Requires training of health care professionals through the diagnostic hubs to be increased by expanding educational relationships that support primary care, developing thorough care plans, and improving diagnostics so that health care professionals have the requisite training and expertise to know when to refer and feel comfortable with detection and diagnosis of Alzheimer's disease and related conditions;
   c) Requires the diagnostic hubs to continue and expand upon the cognitive health assessment training and validated tool for Medi-Cal;
   d) Requires the diagnostic hubs to create capacity to secure access to new Alzheimer's and related condition clinical therapies coming to the market, consistent with federal requirements;
   e) Requires the hubs to collaborate DHCS in its effort to promote Dementia Care Aware and in its effort to continue and expand upon its cognitive health assessment training, as specified; and,
   f) Requires the hubs to provide information to persons diagnosed with dementia and their care partners about home- and community-based services, including area agencies on aging, caregiver resource centers, and aging and disability resource connections.

3) Requires a state department or diagnostic hub to obtain and maintain approval from DHCS to host any Dementia Care Aware materials on websites not owned by DHCS.

4) Permits the diagnostic hubs to collaborate with relevant state departments to provide, where relevant, expertise related to state or federal research, and training, monitoring, consultation, and continuing education to the families of those who are affected by Alzheimer's disease.

5) Requires a state department or diagnostic hub to obtain and maintain approval from DHCS to host any Dementia Care Aware materials on internet websites not owned by DHCS. Requires other state departments and diagnostic hubs, if DHCS grants that approval, to submit reports, as specified, describing the use of Dementia Care Aware materials.

6) Makes implementation of this bill subject to an appropriation by the Legislature for its purposes. Requires provisions relative to Dementia Care Aware to be implemented only to the extent any necessary federal approvals are obtained, and federal financial participation under the Medi-Cal program is available and is not otherwise jeopardized.

7) Permits DHCS, for purposes of implementing provisions relative to Dementia Care Aware and for purposes of an existing Medi-Cal benefit that pro\vides for annual cognitive health assessments for those over 65 years of age, to enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis. Exempts these contracts from specified existing public contracting law.

8) Makes other technical, clarifying changes.

Background

According to the Alzheimer's Association, Alzheimer's disease is a type of degenerative, brain disease that is thought to begin 20 years or more before symptoms arise, with small changes in the brain that are unnoticeable to the person affected. Only after years of brain changes do individuals experience noticeable symptoms, such as memory loss and language problems. Symptoms occur because nerve cells in parts of the brain involved in thinking, learning and memory (cognitive function) have been damaged or destroyed. Individuals typically live with Alzheimer's symptoms for years. Over time, symptoms tend to increase and start interfering with individuals' ability to perform everyday activities. At this point, the individual is said to have dementia due to Alzheimer's disease, or

Alzheimer's dementia. As the disease progresses, neurons in other parts of the brain are damaged or destroyed. Activities that used to be core to the individual's identity, such as planning family events or participating in sports, may no longer be possible. Eventually, neurons in parts of the brain that enable a person to carry out basic bodily functions, such as walking and swallowing, are affected. People in the final stages of Alzheimer's disease are bed-bound and require around-the-clock care. Alzheimer's disease is ultimately fatal. According to the Centers for Disease Control and Prevention (CDC), Alzheimer's disease is the sixth leading cause of death among adults in the United States and the fifth leading cause of death among adults aged 65 or older. In California, Alzheimer's is the fourth leading cause of death. In 2020, an estimated 5.8 million Americans aged 65 an older had Alzheimer's disease, including 690,000 Californians.

Alzheimer's Disease Program. According to CDPH, the Alzheimer's Disease Program was established to meet the legislative mandates of relieving the human burden and economic cost of Alzheimer's disease and related disorders, and to assist in ultimately discovering the cause and treatment of these diseases. The program established and administers a statewide network of ten CADCs at university medical centers dedicated to improving the quality of life of persons affected with Alzheimer's disease and their families by providing diagnostic and treatment services; professional training for medical residents, postdoctoral fellows, nurses, interns, and medical students; and community education, such as caregiver training and support. The Alzheimer's Disease Research Fund awards grants through a competitive process to scientists in California engaged in the study of Alzheimer's disease and related disorders. Key Partners include: California Department of Aging (CDA), the Alzheimer's Association, CHHS Alzheimer's Disease and Related Disorders Advisory Committee, Caregiver Resources Centers, and Area Agencies on Aging.

Comments

Author's statement. According to the Alzheimer's Association, more than 6.5 million Americans have Alzheimer's disease, the most common cause of dementia, affecting cognitive and social behavior. By 2050, an estimated 12.7 million individuals ages 65 and older will be affected by Alzheimer's. California Alzheimer's Disease Centers (CADCs) are a network of sites at university medical schools, overseen by CDPH, that provide services ranging from specialized training for healthcare professionals to piloting federally-funded clinical trials. The CADCs also serve culturally and linguistically appropriate dementia care to the African-American, Asian American and Pacific Islander, LGBTQIA+, and Latino communities. Dementia Care Aware is overseen by the Department of Health Care

Services (DHCS) to provide statewide standards of care for dementia screening for primary care providers across all healthcare coverage options. However, without adequate funding and coordination, these two programs will be restricted in providing dementia care to hundreds of thousands of patients, leaving the most vulnerable without treatment. This bill would form the California Alzheimer's Diagnostic Hubs across the state to provide equity-focused services for patients and ultimately deliver the promise of more time for the loved ones of the patient.

Related/Prior Legislation

SB 861 (Limón, 2022) would have established the Dementia Care Navigator Grant Pilot Program under CDA for the purpose of incentivizing local organizations to provide dementia care navigation training services, and would have required CDA to develop the pilot program in partnership with organizations with expertise using community health workers, promotores, and health navigators, and to award grants on a competitive basis, with priority given to organizations serving underserved communities. SB 861 was vetoed by the Governor, who stated, in part:

The need for quality, culturally competent care is a priority of my administration. As an example of this commitment, the 2022 Budget Act included $281.4 million over three years to recruit, train, and certify community health workers who can provide dementia care navigation, among other services. This bill creates more than $6 million in General Fund cost pressures that were not accounted for in the budget.

While I am unable to sign this bill, I am directing the Department of Health Care Access and Information to work with stakeholders including those that work on dementia care as they begin to develop and implement the Community Health Worker program established by SB 184 (Committee on Budget and Fiscal Review, Chapter 47, Statutes of 2022), and funded by the Budget Act of 2022.

AB 1618 (Aguiar-Curry, 2022) was substantially similar to AB 387. AB 1618 was held on the Senate Appropriations Committee suspense file.

AB 1684 (Voepel, 2022) would have required CDPH to implement a public awareness campaign on Alzheimer's disease that includes education for unpaid caregivers, including family and friends who provide care to someone with Alzheimer's or dementia. AB 1684 was held on the Senate Appropriations Committee suspense file.

SB 42 (Limon, Chapter 484, Statutes of 2021) required Medi-Cal to cover an annual cognitive health assessment for beneficiaries who are 65 years of age or

older and not otherwise eligible for a similar assessment as part of the Medicare program. Required DHCS to determine training and validated tools in order for Medi-Cal providers to render and receive payment for the covered benefit.

AB 388 (Limon, 2019) would have required CDPH to implement the action agenda items in the Healthy Brain Initiative, as defined, to the extent resources are available. AB 388 was held in the Senate Appropriations Committee but the program was included in the 2019 Budget Act, AB 74 (Committee on Budget).

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

According to Assembly Appropriations:

1) DHCS estimates costs of $5.3 million in fiscal year (FY) 2024-25 and $10.5 million per year, ongoing (50% federal funds (FF)/50% General Fund (GF)), as follows:

    a) DHCS will need to convert to permanent positions three limited-term positions currently funded by the Home and Community-Based Services Spending Plan (which ends on December 31, 2024) for the Dementia Care Aware program. The positions are a Medical Consultant I to serve as the clinical lead, a Health Program Specialist I to serves as the lead and expert advisor, and an Associate Governmental Program Analyst to perform contract management and project tracking, at costs of $277,000 in fiscal year (FY) 2024-25 and $544,000 per year, ongoing (50% FF)/50% General Fund (GF)).
    b) To continue to work with an external contractor to maintain, update, and give ongoing recommendations for quality improvement of the Dementia Care Aware provider training and the Medi-Cal cognitive health assessment benefit, at a cost $10 million per year starting January 1, 2025 (50% FF/50% GF).

2) The California Department of Public Health (CDPH) estimates ongoing costs of $178,000 for one full-time position to provide grant administration and oversight of the hubs (GF).

SUPPORT: (Verified 9/13/23)

Alzheimer's Association State Policy Office (source)
Alzheimer's Greater Los Angeles
Alzheimer's Orange County
Alzheimer's San Diego

California Alliance for Retired Americans
California Alzheimer's Disease Center
California Assisted Living Association
California Commission on Aging
California Senior Legislature
County of Alameda, Board of Supervisors
Keck School of Medicine, University of Southern California
LeadingAge California
Stanford/VA Alzheimer's Center
Seven individuals

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to the Alzheimer's Association State Policy Office, the sponsor of this bill, the practical and emotional impacts of not having a diagnosis are vast and deep. Without a diagnosis, individuals cannot access clinical trials that are crucial for discovering treatments or a cure to the disease. Without a diagnosis, individuals cannot access care planning resources that can help in accessing the limited care resources available. Without a diagnosis, individuals and their families are left without crucial information that can help them life plan with dignity and love. These are just some of the impacts of not having a timely and accurate diagnosis. These impacts can be mitigated through the work of our CADCs and of Dementia Care Aware. By ensuring that these hubs have the support and resources needed to successfully engage their regions, everyone can have access to the world class services and expertise these centers contain. Lastly, our state's Master Plan for Aging new 2023-2024 initiatives uplift the importance of this work, and specifically the Dementia Care Aware program in Goal 2 "Health Reimagined" initiative 45.

Prepared by: Melanie Moreno / HEALTH / (916) 651-4111
9/13/23 20:40:44

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

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

UNFINISHED BUSINESS

Bill No: SB 661
Author: Bradford (D)
Amended: 9/1/23
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 4/19/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 39-0, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Limón

ASSEMBLY FLOOR: Not available

SUBJECT: Student Athlete Bill of Rights

SOURCE: Author

DIGEST: Expands the rights that student athletes who attend an institution of higher education (IHE), as defined, and removes the requirement on IHE, to rely exclusively on revenue derived from media to defray any costs accrued from affording these benefits to student athletes.

Assembly Amendments exempt an athletic program whose teams compete in Division III of the National Collegiate Athletic Association (NCAA).

ANALYSIS:

Existing law:

1) Requires an athletic program that does not renew an athletic scholarship of a student athlete who suffers an incapacitating injury or illness resulting from his or her participation in the athletic program, and the IHE's medical staff determines that he or she is medically ineligible to participate in intercollegiate athletics, to provide an equivalent scholarship that, combined with the total duration of any previous athletic scholarship or scholarships received by the student athlete, will be provided for a total of up to five academic years or until the student athlete completes his or her undergraduate degree, whichever period is shorter.

   a) Clarifies that if a student athlete takes a temporary leave of absence from an IHE, the duration of that leave of absence shall not count against the five-year limit on eligibility for an equivalent scholarship.

   b) Requires an athletic program to provide an equivalent scholarship to a student athlete who was on an athletic scholarship and is in good standing, but has exhausted his or her athletic eligibility, for up to one year or until the student athlete completes his or her primary undergraduate degree, whichever is shorter, except that an athletic program with a graduation success rate that is above 60 percent, disaggregated by team, shall not be subject to the requirements of this paragraph.

   c) States a student athlete whose athletic scholarship is not renewed for cause by an athletic program shall receive no benefits under this part, but may appeal this decision within the IHE attended by the student or within the athletic conference or association of which that institution of higher education is a member, as appropriate. (Education Code (EC) § 67452 (a))

2) Requires each athletic program to conduct a financial and life skills workshop for all of its first-year and third-year student athletes at the beginning of the academic year. (EC § 67452 (b))

3) Requires an IHE to grant a student athlete the same rights as other students with regard to any and all matters related to possible adverse or disciplinary actions, including, but not necessarily limited to, actions involving athletically related financial aid. (EC § 67452 (c))

4) Requires an athletic program to respond within seven business days with an answer to a student athlete's written request to transfer to another IHE. (EC § 67452 (d))

5) Specifies that an IHE that receives less than ten million dollars, on average, in media rights are exempt in providing benefits to their student athletes as specified in #1-4. (EC § 67452 (e))

6) Requires an IHE that receives more than ten million dollars, on average, from intercollegiate media rights to exclusively use that revenue to provide benefits to their student athletes. (EC 67452 (f))

This bill:

1) Strikes an exemption in current law for IHEs that make less than $10 million, on average, in annual income derived from media right for intercollegiate athletics, to provide specified benefits to their student athletes, thereby require those IHEs to provide benefits to their student athletes.

2) Removes the requirement that IHEs that make more than $10 million, on average, in annual income derived from media right for intercollegiate athletics, to use that revenue to defray any cost in providing specified benefits to their student athletes, thereby expanding the source of funds used by an IHE to defray the cost of these benefits.

3) Exempts an athletic program whose teams compete in Division III of the NCAA.

4) Clarifies future laws related to college athletes benefits, as specified, will take precedent.

5) Makes various technical changes.

Comments

1) *Need for the bill.* According to the author, "SB 661 will remove the existing exemption for universities who receive on average less than $10,000,000 in annual income derived from media rights, ensuring that all universities provide scholarship protections and finance/life skills workshops to their student athletes. After SB 206 was enacted into law authorizing name, image, and likeness promotion opportunities, many athletes across all sports have utilized this change in law to partner with companies on social media, provide coaching

lessons and camps, and pursue other business endeavors. Given the massive increase in students utilizing these new opportunities, there is an increased need for student athletes to have financial literacy education, but existing law only imposes this requirement to a few universities. Additionally, no student athlete, regardless of which university they attend or sport they play should fear losing their scholarship as a result of an injury. It is crucial that all student athletes in California have these basic protections."

2) *Name, Image, and Likeliness (NIL).* In *Alston v. National Collegiate Athletic Association (NCAA)*, the athletes challenged the NCAA compensation limits as reducing competition among colleges and universities as to what those schools would otherwise provide the athletes. Given this restriction on competition, the NCAA relied on its longstanding position that the uniqueness of its product – the status of student athletes as amateurs – required antitrust deference and pointed for support to the 1984 decision in *NCAA v. Board of Regents*. Specifically, the NCAA's procompetitive justification for the status quo (whereby the NCAA limits athlete compensation tied to academics and athletics and mostly prohibits athlete monetization of NIL rights) was that the survival of the *product* of college athletics depends on such restrictions by the NCAA. It reasoned that intercollegiate athletics differentiates itself from professional sports chiefly through the amateur status of its athletes, therefore diminishing the purity of amateurism through unrestrained athlete payment—even for academic expenses—would render intercollegiate athletics obsolete.

   The *Alston* decision rejected this argument, holding that the *Board of Regents* decision was inapplicable to questions of athlete compensation and that the decision's oft-cited commentary that the NCAA enjoys "ample latitude" under federal antitrust law was mere dicta that could not insulate the NCAA from antitrust scrutiny. Specifically, the Court found the NCAA had failed to show any economic analysis as to how or why the consumer market for college sports might be irrevocably destroyed by teenage athletes receiving unrestrained educational benefits. The Court noted, in contrast, that the *Alston* plaintiffs were able to show the very opposite—namely that the popularity of college sports had *increased* in the years following increased allowances in educational benefits allocation.

   Justice Gorsuch found that by limiting education-related compensation that college athletes are permitted to receive from their schools, the NCAA is acting in violation of Section 1 of the Sherman Act, which prohibits any "contract, combination, or conspiracy in restraint of trade or commerce." The Court

reached this conclusion by affirming the lower court's application of the "rule of reason" – a judicial doctrine of antitrust law.

3) *Current Benefits Awarded to Students.* As specified in current statute, intercollegiate student athletes who attend IHE who receive more than ten million dollars, on average, in media rights must provide the following to its students athletes:

   a) An equivalent scholarship that totals to five academic years or until the student athlete completes their undergraduate degree, whichever is shorter, if an athletic program does not renew a student athletes scholarship due to an incapacitating injury or illness, and the IHE's medical staff determines that the medical injury or illness sustained by the student athlete is medically ineligible to participate in intercollegiate athletics, resulting from the student athlete's participation in the athletic program;

   b) Financial and life skills workshop for all of its first-year and third-year student athletes at the beginning of the academic year;

   c) Parity among student athletes to any and all matters related to possible adverse or disciplinary actions, including, but not necessarily limited to, actions involving athletically related financial aid; and

   d) Timely response (within 7 business days) from an athletic program to a student athlete's written request to transfer to another IHE.

   This bill would ensure that all student athletes at an IHE would receive these benefits (described above), regardless of how much income an IHE makes from media rights for intercollegiate athletics and expands an IHEs ability to pay for these benefits beyond revenue made solely from media rights for intercollegiate athletics. While some IHE already afford these benefits to their student athletes, providing a financial and life skills workshop, parity in student athlete discipline, and a timely response should not pose significant challenges to IHEs that would fall under this bill.

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

According to the Assembly Appropriations Committee, "Ongoing, unknown costs, General Fund or special fund, to CSU to provide college athletes with certain benefits, including extended scholarships. The precise amount would depend upon

several variables, including how many CSU campuses already provide these benefits to college athletes and the particulars of how a campus would offer financial and life skills workshops, for example. Ongoing, unknown, but likely minor costs, General Fund or special fund, to UC to provide additional college athletes with certain benefits, including extended scholarships. According to UC, it already provides some of the benefits this bill requires to its college athletes. The largest cost, according to UC, would be to offer financial and life skills workshops, which could vary by campus."

SUPPORT: (Verified 9/13/23)

California Teachers Association

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to the California Teachers Association, "The California Faculty Association wrote that "existing legislation, while a significant step forward, contains an unfortunate exemption for institutions that receive less than $10,000,000 in annual income from media rights for intercollegiate athletics. This exemption inadvertently creates a two-tier system for student athletes, where the rights and protections provided under the Bill of Rights are only accessible to those attending institutions with substantial media revenues. SB 661 rectifies this inequity, ensuring that all student athletes, regardless of the size or wealth of their institutions, receive the rights and protections they deserve. The provision to remove the requirement on institutions to rely exclusively on revenue derived from media rights to cover the costs of these benefits is also welcome. This will allow for more financial flexibility, enabling institutions to fully implement the Student Athlete Bill of Rights. Student athletes contribute significantly to their schools and communities, yet they often face unique academic and personal challenges due to the demands of their athletic commitments. These challenges necessitate comprehensive institutional support for these students. By extending the full benefits of the Student Athlete Bill of Rights to all student

athletes, SB 661 will enhance their academic success, personal wellbeing, and overall college experience."

Prepared by: Kordell Hampton / ED. / (916) 651-4105
9/13/23 20:38:10

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

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

UNFINISHED BUSINESS

Bill No: SB 665
Author: Allen (D)
Amended: 9/7/23
Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 3/29/23
AYES: Allen, Dahle, Gonzalez, Menjivar, Skinner
NO VOTE RECORDED: Hurtado, Nguyen

SENATE APPROPRIATIONS COMMITTEE: 6-1, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Wahab, Wiener
NOES: Seyarto

SENATE FLOOR: 39-0, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Seyarto

ASSEMBLY FLOOR: Not available

SUBJECT: Plastic waste: single-use plastics alternatives: working group

SOURCE: Author

DIGEST: This bill requires the California Environmental Protection Agency (CalEPA) establish, by January 1, 2025, a working group comprised of state entities to establish a policy framework for evaluating novel materials that are alternatives to plastics for single-use products.

Assembly Amendments take specifying amendments to the bill including that the framework will evaluate novel plastic and plastic-alternative material types *used to produce single-use products,* and make structural changes to the working group

including removing specification on which entity will staff the working group and adding the Department of Food and Agriculture to the working group.

ANALYSIS:

Existing law:

1) Defines "Plastic" to mean a synthetic or semisynthetic material chemically synthesized by the polymerization of organic substances that can be shaped into various rigid and flexible forms, and includes coatings and adhesives.

   a) "Plastic" includes traditional plastics like HDPE and PET.

   b) "Plastic" includes aliphatic biopolyesters, such as polyhydroxyalkanoate (PHA) and polyhydroxybutyrate (PHB).

   c) "Plastic" does not include natural rubber or naturally occurring polymers such as proteins or starches. (PRC § 42041)

2) Defines "plastic product" as a product made of plastic, alone or in combination with other material. (PRC §42356)

3) Prohibits the sale of a plastic product that is labeled as "biodegradable," "degradable," "decomposable," or implies that the plastic product will break down, fragment, biodegrade, or decompose in a landfill or other environment unless it meets certain standards. (PRC §42357)

4) Requires the California Department of Resources Recycling and Recovery (CalRecycle) to, by July 1, 2020, convene a Statewide Commission on Recycling Markets and Curbside Recycling, and, by January 1, 2021, to issue policy recommendations to achieve market development goals and identify products that are recyclable or compostable. (PRC §42005.5)

This bill:

1) Requires CalEPA, by January 1, 2025, to establish a working group comprised of the State Water Resources Control Board, the Department of Toxic Substances Control (DTSC), CalRecycle, the Office of Environmental Health Hazard Assessment, the Department of Food and Agriculture, and the Ocean Protection Council, staffed by a board, department, or office within CalEPA, at the direction of CalEPA.

2) Requires the working group to establish a framework, for evaluating novel plastic and plastic-alternative material types used to produce single-use

products as they are developed to inform policy decisions designed to create a more sustainable and circular economy.

3) Requires the working group to develop a set of recommendations, including potential scientific testing standards that could be used for certifying novel materials. Requires these recommendations to inform state policy related to novel material types, including appropriate marketing and labeling of the material, how the material is handled at the end of its useful life, and how the material needs to be treated in relation to existing state policies, rules, and regulations.

Background

1) *The problem with plastic.* Plastics pose a threat to the environment from origin to end-of-life. Plastics are petroleum based and have a large carbon footprint—with global plastic production contributing an estimated three and a half percent of all greenhouse gas emissions, a higher carbon footprint than the entire aviation sector. In 2021, global plastics production was estimated at 390.7 million metric tons, a four percent increase from the previous year. The United Nations Environment Programme reports that only nine percent of all plastic ever made has been recycled. A further 12% has been incinerated, and the remaining 79% has accumulated in landfills or in natural environments, including the oceans. Once plastics enter the environment, they remain there for hundreds to thousands of years. As these plastics degrade slowly over time, they continue to jeopardize the environment and human health. Plastics do not break down into their constituent parts, but instead break down into very small particles of plastic, or microplastics (plastics under five millimeters). These microplastics have been found in the most pristine natural environments on earth, including in national parks and in Antarctic sea ice. Microplastics are so small that they are easily absorbed into biological organisms, where they bioaccumulate up the food chain: microplastics have been found in human lungs, brains, and placentas. Microplastics are shown to increase risk of cancer and disrupt hormone pathways in lab rats.

2) *The problem with plastic-alternatives: pollution and confusion.* The plastic pollution that inevitably results from plastic consumption poses a major threat to the environment, ecosystems, and human health. “Bioplastics” have been posited as an eco-friendly alternative to these traditional plastics. Bioplastics are biobased, biodegradable, or compostable products that can replace traditional, fossil-fuel-based plastics for some applications (e.g. bioplastics cups as an alternative to plastic cups). However, bioplastics are not a perfect solution to

the plastic problem. Moreover, not all bioplastics are created equal, and some bioplastics can be persistent pollutants in the waste stream and the environment.

a) *Pollution: Bioplastics as pollutants.* Bioplastics are generally grouped into three categories: biodegradable, biobased, and bioplastics that are both biobased and biodegradable. Biodegradable plastic. Biodegradable plastics can break down into their organic constituents with the assistance of organisms, like microbes or fungi. Because these conditions don't exist everywhere, biodegradable plastics can persist in their environments for a long time: one study on a range of biodegradable plastics found that many types of biodegradable plastics will never spontaneously degrade in natural settings. A subset of biodegradable plastics are compostable plastics. Unlike other biodegradable plastics, compostable products don't need living organisms to decompose: they can break down under certain environmental conditions, like wetness, heat, or pressure. That doesn't mean they break down as easily as food waste--often, compostable plastics require the intense conditions created by industrial composting to break down.

   Biobased plastics. Biobased alternatives to traditional petroleum-based plastics are made from plant products. However, "biobased plastics" are defined by what they are made of, not how they degrade--and many bioplastics are not compostable or biodegradable. In fact, in 2021, approximately half of the bioplastics sold on the market were not biodegradable.

   Biobased and biodegradable plastics. Some biobased and biodegradable products do, as the name implies, biodegrade…*eventually.* An example of biodegradable and biobased plastic is polyhydroxyalkanoates (PHAs). PHAs have traditionally been classified as "marine biodegradable plastics." However, at least one recent study from 2019 found that it took between 1.5-3.5 years for PHA to degrade in marine environments. From the perspective of wildlife in marine environments, PHA plastic waste can still present a health risk. Notably, PHA was recently classified as plastic under SB 54 (Allen, Chapter 75, Statutes of 2022).

b) *Confusion: bioplastics have a history of greenwashing.* Given that definitions for bioplastics are based on some mix of their source (biobased) or end of life (biodegradable, compostable), and that these categories overlap, it's no wonder that bioplastics have been poorly understood by consumers. That lack of clarity has been exploited by companies that

"greenwash" products--making them seem more environmentally-friendly than they actually are. Greenwashing not only exploits consumers, it can lead to harmful environmental impacts when products are improperly disposed of (e.g., when a biobased cup is thrown into a backyard composter, it may persist in that environment for years, breaking into smaller and smaller pieces rather than returning to organic material).

California recognizes that greenwashing is a problem, and has instituted several laws to prevent the practice, including prohibiting any untruthful, deceptive, or misleading environmental marketing claim and establishing specific requirements for "compostable" and "biodegradable." Further, CalRecycle has been tasked to adopt regulations to establish a process and develop criteria for determining the types of food service packaging that are reusable, recyclable, or compostable.

In summary, some of the current alternatives to plastics, in this case bioplastics, may be a step away from fossil fuel dependency, but are certainly not a golden ticket to a pollution-free future. A 2014 CalRecycle report: "Biobased and Degradable Plastics Understanding New Packaging Materials and Their Management in California" concluded that "While producing bioplastics in the state may offer some environmental benefits, currently the potential value is overshadowed by end-of-life concerns." These alternatives and emerging novel materials should be viewed with optimism, but also with caution.

3) *Bioplastics are on the rise.* Love them or hate them (or more likely, love some and hate others), bioplastics are on the rise. Approximately 2.11 million tons of bioplastics were produced in 2018. While that is just one percent of all plastics produced, the global market for bioplastics is expected to increase in volume by 40% in the next five years. This rapid increase in bioplastics is driven in part by policy shifts as the global community, including and oftentimes led by California, seeks to reduce traditional plastic consumption.

   As the amount of plastics declines and more alternatives to plastic enter the market, it will become even more important to understand how each of these new materials should be treated. This includes developing a framework for how will these novel materials will be evaluated, marketed, shepherded through their end-of-life, and how will they be folded into existing policies around plastic.

Comments

1) *Purpose of the bill.* According to the author, "SB 665 ensures that California policy supports the strategic integration of the nascent novel materials industry through the creation of a robust State-led working group comprised of the CalRecycle, the Water Board, DTSC, OEEHA, and the OPC. The group will be tasked with establishing a framework for effectively evaluating and comparing these new materials and for recommending policy approaches to ensure proper regulatory oversight. This approach will allow for the coordination of research, policy, regulation, and enforcement to a degree that is unprecedented for this type of industry transition."

2) *What Makes a Good (Working) Group?* This bill does not specify who will be representing the various State entities in the working group. This distinction is important. If the desired output of the working group is technical, then having program staff lead the working group will be invaluable. On the other hand, if the primary goal is to build consensus between the various state entities involved, directors and top leadership at the department, board, and council may be more strategic.

Related/Prior Legislation

SB 54 (Allen, Chapter 75, Statutes of 2022) prohibited producers of single-use, disposable packaging or single-use, disposal food service ware producers from offering for sale, selling, distributing, or importing in or into the state those products manufactured after January 1, 2032, unless it is recyclable or compostable. Defined "plastic."

AB 1201 (Ting, Chapter 504, Statutes of 2021) prohibited a person from selling a plastic product labeled with the term "compostable," "home compostable," or "soil biodegradable" unless the product meets specified standards and satisfies specified criteria and authorized CalRecycle to adopt regulations for plastic product labeling.

AB 1583 (Eggman, Chapter 690, Statutes of 2019) required CalRecycle to, by July 1, 2020, convene a Statewide Commission on Recycling Markets and Curbside Recycling, and, by January 1, 2021, to issue policy recommendations to achieve market development goals and identify products that are recyclable or compostable.

SB 567 (DeSaulnier, Chapter 594, Statutes of 2011) created the Plastic Products Law under the California Integrated Waste Management Act of 1989, to prohibit a plastic product from being sold that is labeled "compostable," "home compostable," or "marine biodegradable" unless the plastic meets certain standards that are subject to CalRecycle requirements.

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

According to the Assembly Appropriations Committee:

- CalEPA and the State Water Resources Control Board jointly estimate ongoing annual costs of at least $500,000 (General Fund or special fund) for a minimum of two positions, one to serve as a leader or executive sponsor of the working group and the other to compile data and collaborate on deliverables, and for contracting costs to assist with market research on novel materials.

- CalRecycle estimates ongoing annual costs of $265,000 for two positions to participate in and support CalEPA.

- The Office of Environmental Health Hazard Assessment estimates ongoing costs of $176,000 annually (General Fund or special fund) for one position to support development of the framework.

- If DTSC is required to staff the working group, either in its entirety or partially, as well as act in an advisory role, DTSC estimates it would require between one and two positions, costing between $143,000 and $329,000 on an ongoing basis (General Fund or special fund). In the event DTSC acts only in an advisory role in the working group, its costs would be minor and absorbable.

- The California Department of Food and Agriculture estimates ongoing annual costs of approximately $156,000 for one new environmental scientists (General Fund) to implement this bill.

SUPPORT: (Verified 9/13/23)

California State Association of Counties
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley
League of California Cities
National Stewardship Action Council
Republic Services - Western Region
Rural County Representatives of California
South Bayside Waste Management Authority dba. RethinkWaste

OPPOSITION: (Verified 9/7/23)

None received

Prepared by: Brynn Cook / E.Q. / (916) 651-4108
9/13/23 20:41:56

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

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

UNFINISHED BUSINESS

Bill No: SB 671
Author: Portantino (D)
Amended: 9/7/23
Vote: 21

SENATE EDUCATION COMMITTEE: 6-0, 4/12/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Wilk
NO VOTE RECORDED: Smallwood-Cuevas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: School safety plans: dangerous, violent, or unlawful activities

SOURCE: Glendale Police Department

DIGEST: This bill requires a local education agency (LEA), county office of education (COE),and charter school safety plans to include procedures to assess and respond to reports of any dangerous, violent, or unlawful activity that is being conducted or threatened to be conducted at the school, at an activity sponsored by the school, or on a school bus serving the school.

Assembly Amendments includes double-jointing language to avoid chaptering out issues with SB 10 (Cortese, 2023), SB 323 (Portantino, 2023), and AB 1604 (Bonta, 2023) of the current legislative session.

ANALYSIS:

Existing law:

1) Establishes the Partnership, comprised of the Superintendent of Public Instruction and the Attorney General, and specifies that the Partnership shall develop programs and policies necessary to help implement the creation of school safety plans, the administration of safe school programs and all training, procedures, and activities, and cooperation with other states and state and federal agencies on matters relating to school safety (Education Code (EC) § 32262)

2) Requires the Partnership to establish a statewide school safety cadre for the purpose of facilitating interagency coordination and collaboration among school districts, COEs, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to improve school attendance, encourage good citizenship, and to reduce school violence, school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy rates, bullying, including acts that are committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment. (EC § 32270)

3) States it is the intent of the Legislature that schools develop comprehensive school safety plans using existing resources, including the materials and services of the Partnership. It is also the intent of the Legislature that schools use the handbook developed and distributed by the School/Law Enforcement Partnership Program entitled "Safe Schools: A Planning Guide for Action" in conjunction with developing their plan for school safety. (EC § 32282(b))

4) Authorizes the release of student's personal information without parental consent, including, but not limited to, name, address, and telephone number, to appropriate persons in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of a pupil or other persons. Schools or school districts releasing information pursuant to this subparagraph shall comply with the requirements set forth in the CFR, as specified in # 1. (EC § 49076 (a)(2)(A))

5) Provides that each school district and COE is responsible for the overall development of all comprehensive school safety plans for its schools operating

kindergarten or any of grades 1 to 12, inclusive in collaboration with school personnel, law enforcement, and first responders. (EC § 32281 (a))

6) Requires that the comprehensive school safety plans include an assessment of the current status of school crime committed on school campuses and at school-related functions and identification of appropriate strategies and programs to provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, including child abuse reporting procedures; disaster procedures; an earthquake emergency procedure system; policies regarding pupils who commit specified acts that would lead to suspension or expulsion; procedures to notify teachers of dangerous pupils; a discrimination and harassment policy; the provisions of any schoolwide dress code; procedures for safe ingress and egress of pupils, parents, and school employees to and from school; a safe and orderly environment conducive to learning; and rules and procedures on school discipline. (EC § 32282)

7) Encourages that, as school safety plans are reviewed, plans be updated to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campuses, if the school district employs these professionals. (EC § 32282.1)

8) Requires the comprehensive school safety plan to be submitted annually to the school district or COE for approval and requires a school district or COE to notify the California Department of Education (CDE) by October 15 of every year of any school that is not in compliance. (EC § 32288)

This bill requires an LEA, COE, and charter school safety plans to include procedures to assess and respond to reports of any dangerous, violent, or unlawful activity that is being conducted or threatened to be conducted at the school, at an activity sponsored by the school, or on a school bus serving the school.

Comments

1) *Need for the bill.* According the author, "Keeping our children safe at school needs to be a top priority for all of us. The absence of mandated cross reporting between school districts, offices of education, and law enforcement regarding threats of serious school crimes is very troubling. Our governmental agencies should work together to prevent tragic acts of violence that have become all too common on our campuses."

2) *Comprehensive School Safety Plan (CSSP).* LEAs, COEs, and charter schools serving pupils in grades kindergarten through twelve are required to develop and maintain a CSSP designed to address campus risks, prepare for emergencies, and create a safe, secure learning environment for students and school personnel.

   The law requires designated stakeholders to annually engage in a systematic planning process to develop strategies and policies to prevent and respond to potential incidents involving emergencies, natural and other disasters, hate crimes, violence, active assailants/intruders, bullying and cyberbullying, discrimination, and harassment, child abuse and neglect, discipline, suspension and expulsion, and other safety aspects.

   The law requires that each school update and adopt its CSSP by March 1 annually. Before a LEAs, COEs, or charter school adopts their CSSP, the schoolsite council or school safety planning committee must hold a public meeting at the schoolsite to allow members of the public to express an opinion about the school safety plan. The schoolsite council or school safety planning committee must also notify the local mayor and representatives of the following:

   a) The local school employee organization.

   b) The parent organization at the school site, including the parent-teacher association and parent-teacher clubs.

   c) Each teacher organization at the school site.

   d) The Student body government.

   e) All persons who have indicated they want to be notified.

   Once the public meeting is held, the CSSP is adopted. LEAs and COEs must annually notify the CDE by October 15 of any schools that have not complied with requirements. Statute also requires the CDE to develop and post on its website best practices for reviewing and approving school safety plans.

3) *School-Law Partnership.* The Legislature created the Partnership as a collaboration between the CDE and the Department of Justice (DOJ) in 1985.

State law requires the Partnership to fulfill several broad duties related to safety plans, including developing policies necessary for implementation, providing all related training, and administering safe school programs. More specifically, the Partnership must sponsor two regional conferences related to school safety, establish a statewide safety cadre to facilitate interagency coordination between law enforcement and educational entities and conduct annual assessments of items such as the effectiveness of training on safe schools and crisis response. In 2002, the Partnership published *Safe Schools: A Planning Guide for Action*, according to the intent of the Legislature, should have, in conjunction with other resources, been used when developing school safety plans. However, when the 2007-08 recession occurred, significant budget cuts to CDE, DOJ, and the elimination Crime and Violence Prevention Center, eliminated the Partnership.

Despite the elimination of the Partnership, state law continues to require CDE and DOJ to assist schools in creating safe environments. CDE and DOJ continue to contract with professional trainers to coordinate statewide workshops for districts and county offices, and the provision of training on bullying prevention is contingent on appropriations. Moreover, in 2021, CDE, DOJ, and many stakeholders published the *Educator's Guide to Comprehensive School Safety Plans*, the first updated version of the 2002 publication *Safe Schools: A Planning Guide for Action*.

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

According to the Assembly Appropriations Committee analysis, "One-time costs to public schools to expand elements of their school safety plans, likely in the low tens of thousands of dollars to hundreds of thousands of dollars. The state has over 10,000 public schools. To the extent this bill leads to a school taking additional steps it would not have otherwise taken to respond to dangerous, violent, or unlawful activity taking place on its property, at a school-sponsored event, or on a school bus, costs would be higher. The Commission on State Mandates has determined school safety plan requirements to be a reimbursable state mandate in the past. If the Commission determines this bill's requirements to also be a reimbursable state mandate, the state would need to reimburse these costs to schools or provide funding through the K-12 Mandate Block Grant."

SUPPORT: (Verified 9/13/23)

Glendale Police Department (source)

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to the City of Glendale Police Department, "The Glendale Police Department writes, "Data from the Department of Education shows that schools experienced about 54,000 reported violent incidents during the 2017-18 school year, up from around 41,000 during 2015-16. In 2020-21, there were 93 school shootings with casualties at public and private elementary and secondary schools – the highest number since 2000-01. This dramatic increase in violence at schools cannot be ignored. Early intervention is essential to preventing incidences on campuses. SB 671 will help keep California students safe by having a clear process in the school safety plan to address threats of dangerous, violent, or unlawful activity requiring immediate intervention. Collaborative and community-centric programs are necessary to improve the safety of our communities and this is what SB 671 is intended to do."

Prepared by: Kordell Hampton / ED. / (916) 651-4105
9/13/23 20:47:28

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

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

UNFINISHED BUSINESS

Bill No: SB 673
Author: Bradford (D), et al.
Amended: 9/1/23
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 4/18/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Limón

ASSEMBLY FLOOR: Not available

SUBJECT: Emergency notification: Ebony Alert: missing Black youth

SOURCE: Author

DIGEST: This bill establishes the Ebony Alert system to aid in the location of missing Black youths, including young women and girls, who are reported missing under unexplained or suspicious circumstances, at risk, developmentally disabled, cognitively impaired, or who have been abducted

Assembly Amendments make activation of the alert and investigation by CHP permissive rather than mandatory and clarify the definition of "Ebony Alert" to include at risk, developmentally disabled, or cognitively impaired individuals, or individuals that have been abducted.

ANALYSIS:

Existing law:

1) States that if an abduction has been reported to a law enforcement agency and the agency determines that a child 17 years of age or younger, or an individual with a proven mental or physical disability, has been abducted and is in imminent danger of serious bodily injury or death and there is information available that, if disseminated to the general public, could assist in the safe recovery of the victim, the agency, through a person authorized to activate the Emergency Alert System (EAS), shall request the activation of the EAS within the appropriate local area. (Gov. Code, § 8594 (a).)

2) Provides that the California Highway Patrol, in consultation with the Department of Justice, as well as a representative from the California State Sheriffs' Association, the California Police Chiefs' Association and the California Police Officers' Association, shall develop policies and procedures providing instructions specifying how law enforcement agencies, broadcasters participating in the EAS, and where appropriate, other supplemental warning systems, shall proceed after qualifying abduction has been reported to a law enforcement agency. (Gov. Code, § 8594 (b).)

3) Defines a “Blue Alert” as a quick response system designed to issue and coordinate alerts following an attack upon a law enforcement officer, as specified. (Gov. Code, § 8594.5, (a).)

4) Provides that in addition to the circumstances described under existing law relating to "Amber Alerts", upon the request of an authorized person at a law enforcement agency that is investigating an offense, the California Highway Patrol (CHP) shall activate the EAS and issue a blue alert if all of the following conditions are met:

    a) A law enforcement officer has been killed, suffers serious bodily injury, or is assaulted with a deadly weapon, and the suspect has fled the scene of the offense;

    b) A law enforcement agency investigating the offense has determined that the suspect poses an imminent threat to the public or other law enforcement personnel;

    c) A detailed description of the suspect’s vehicle or license plate is available for broadcast;

d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect; and,

e) The CHP has been designated to use the federally authorized EAS for the issuance of blue alerts. (Gov. Code, § 8594.5 (b).)

5) Provides that the "Blue Alert" system incorporates a variety of notification resources and developing technologies that may be tailored to the circumstances and geography of the underlying attack. (Gov. Code, § 8594.5 (c).)

6) Provides that the blue alert system shall utilize the state-controlled Emergency Digital Information System, (EDIS) local digital signs, focused text, or other technologies, as appropriate, in addition to the federal EAS, if authorized and under conditions permitted by the federal government. (Gov. Code, § 8594.5 (c).)

7) Defines a "Silver Alert" as a notification system, that can be activated as specified, and is designed to issue and coordinate alerts with respect to a person 65 years of age or older who is reported missing. (Gov. Code, § 8594.10. (a).)

8) Provides that if a person is reported missing to a law enforcement agency, and that agency determines that specified requirements are met, the agency may request the California Highway Patrol to activate a "Silver Alert". (Gov. Code § 8594.10. (b).)

9) Provides that if the California Highway Patrol concurs that the specified requirements are met, it shall activate a "Silver Alert" within the geographical area requested by the investigating law enforcement agency. (Gov. Code § 8594.10. (b).)

10) States that a law enforcement agency may request a "Feather Alert" be activated if that agency determines that all of the following conditions are met in regard to the investigation of the missing person:

a) The missing person is an indigenous woman or an indigenous person.

b) The investigating law enforcement agency has utilized available local and tribal resources.

c) The law enforcement agency determines that the person has gone missing under unexplained or suspicious circumstances.

d) The law enforcement agency believes that the person is in danger because of age, health, mental or physical disability, or environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person. (Gov. Code § 8594.13. (c).)

This bill:

1) Establishes legislative findings and declarations relating to this bill.

2) Defines an “Ebony Alert” as a means of a notification system, activated as specified, designed to issue and coordinate alerts with respect to Black youth, including young women and girls, who are reported missing under unexplained or suspicious circumstances, at risk, developmentally disabled, or cognitively impaired, or who have been abducted.

3) Provides that if a person is reported missing to a law enforcement agency, and that agency determines that specified requirements are met, the agency may request the California Highway Patrol to activate an "Ebony Alert".

4) Provides that if the California Highway Patrol concurs that the specified requirements are met, it may activate an "Ebony Alert" within the geographical area requested by the investigating law enforcement agency.

5) Provides that radio, television, cable, satellite, and social media systems are encouraged to, but not required to, cooperate with disseminating the information contained in an Ebony Alert.

6) States that upon activation of an Ebony Alert, the Department of the California Highway Patrol may assist the investigating law enforcement agency by issuing a be-on-the-lookout alert, an electronic flyer, or changeable message signs.

7) States that upon activation of an Ebony Alert, the Department of the California Highway Patrol may use a changeable message sign if both of the following conditions are met:

a) A law enforcement agency determines that a vehicle may be involved in the missing person incident.

b) Specific identifying information about the vehicle is available for public dissemination.

8) Provides that a law enforcement agency may request that an Ebony Alert be activated if that agency determines that an Ebony Alert would be an effective tool in the investigation of missing Black youth, including a young woman or girl. The law enforcement agency may consider the following factors to make that determination:

   a) The missing person is between 12 to 25 years of age, inclusive.

   b) The missing person suffers from a mental or physical disability.

   c) The person is missing under circumstances that indicate any of the following:

      i) The missing person's physical safety may be endangered.

      ii) The missing person may be subject to trafficking.

   d) The law enforcement agency determines that the person has gone missing under unexplained or suspicious circumstances.

   e) The law enforcement agency believes that the person is in danger because of age, health, mental or physical disability, or environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

   f) The investigating law enforcement agency has utilized available local resources.

   g) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

Comments

According to the author, "Data from the 2019 United States Census shows that people who are Black or African American make up 13.4% of the United States population. However, nearly 40% of missing persons are people of color. Black children make up about 38 percent of all missing child cases and receive less media attention to the fact that they are missing. Black youth are disproportionately classified as "runaways" in comparison to their white counterparts who are classified as "missing" and do not receive the Amber Alert. Black women and girls

are at increased risk of being harmed and trafficked. The Congressional Black Caucus Foundation report on human trafficking found in a two-year study of human trafficking incidents across the country, 40% of sex trafficking victims were identified as Black women. SB 673 provides law enforcement with an additional tool, “Ebony Alert” to disseminate timely, accurate information to engage the public and the media to more effectively assist with locating Black Youth and young women that are missing persons.”

The Emergency Alert System (EAS) is part of the broader Integrated Public Alert & Warning System (IPAWS) within FEMA’s national system for local alerting that provides authenticated emergency and life-saving information to the public through mobile phones using Wireless Emergency Alerts to radio and television via the EAS, and on the National Oceanic and Atmospheric Administration’s Weather Radio. For California, FEMA and Cal OES designate entities with authority to alert and warn the public when there is a disaster, threat, or dangerous or missing person. Over 1,500 federal, state, local, tribal and territorial entities use IPAWS to send alerts and warnings.

The California Public Alert and Warning System (CalPAWS) Plan was developed by Cal OES for the purposes of formalizing effective processes and recommending standardized policies for alerting and warning California residents during local or state disasters. The plan outlines new and existing public alerts, warnings, and notification systems to offer state and local authorities various capabilities and dissemination channels for emergency alerts. Currently, California utilizes IPAWS to disseminate emergency information via satellite Emergency Alert System providers, Wireless Emergency Alert system providers, Weather Service Systems, unique systems, and potential future systems.

California also has several alert systems for the purposes of aiding in the location of specific individuals or alerting of particular emergencies. The first system developed in California was “Amber Alert,” which authorized law enforcement agencies to use digital messaging on overhead roadway signs to assist in recovery efforts for child abduction cases. After a successful implementation, the "Blue Alert" and the "Silver Alert" notification systems were developed. The "Blue Alert" system provides for public notification when a law enforcement officer has been attacked, and the "Silver Alert" notification system provides for public notification when either (1) a person age 65 years or older or (2) a person who is developmentally disabled or cognitively impaired is missing. The “Feather Alert” is the most recent addition that notifies the public in cases of endangered

indigenous people who are reported missing under unexplained or suspicious circumstances.

According to the most recent FBI Missing Person and Unidentified Person Statistics in 2021, 125,727 children were labeled as Black juveniles compared to the 197,381 reported white juveniles. However, it's important to note that the FBI makes no distinction between white and non-white Hispanics and Latinos which in turn incorporates the latter groups into the broader white category. This dramatically skews categorization numbers based on race that deprives the communities of raw data. Coupling with the fact that Black youths account for around 14% of all children in the US while making up 38% of the missing person reports, Black youths are disproportionately impacted with higher rates of juvenile labeling and missing person reports. In general, Black Americans comprise 13% of the population while making up 31% of missing persons. These numbers remain consistent with trends seen in previous years in FBI data.

The author states that this bill will give law enforcement an additional tool to effectively assist with locating young black females that are missing or abducted.

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

According to the Assembly Appropriations Committee:

- Minor and absorbable costs to CHP to build out another new alert system.
- However, costs of an unknown, but potentially significant, amount to CHP to consider and activate Ebony Alerts, depending on the number of requests received from law enforcement agencies. This bill requires CHP to activate an alert and provide assistance if CHP concurs that specified criteria are met, but CHP notes the specified criteria are fairly broad and could trigger alerts under many circumstances. To the extent CHP is required to activate more alerts, the public could also become desensitized to the urgent messages conveyed by the alerts.

SUPPORT: (Verified 9/12/23)

California Association of Black Lawyers
California Coalition for Youth
California-Hawaii State Conference of the NAACP
City of Hayward
Greater Sacramento Urban League
NAACP Altadena

NAACP Orange County
NAACP Pasadena
NAACP Richmond
NAACP San Gabriel Valley
NAACP San Pedro-Wilmington Beach
NAACP Sacramento
NAACP Santa Clarita
NAACP Santa Monica/Venice
NAACP Santa Rosa-Sonoma
NAACP Stockton
San Jose/Silicon Valley NAACP
Santa Maria/Lompoc NAACP
Voice of the Youth

OPPOSITION: (Verified 9/12/23)

None received

Prepared by: Alex Barnett / PUB. S. /
9/13/23 20:38:12

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

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

UNFINISHED BUSINESS

Bill No: SB 681
Author: Allen (D), et al.
Amended: 8/28/23
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 6-1, 3/21/23
AYES: Glazer, Allen, McGuire, Menjivar, Newman, Umberg
NOES: Nguyen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 32-8, 5/30/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Political Reform Act of 1974: amendments

SOURCE: Author

DIGEST: This bill reduces the time from twelve to eight days that bills amending the Political Reform Act of 1974 (PRA) be in final form before passage in each house. The bill retains the twelve day requirement if the previous form of the bill did not amend the PRA.

Assembly Amendments change from seven to eight the number of days bills amending the PRA need to be in its final form. The amendments also provide additional details and criteria for the email alerts required to be sent by Legislative Counsel, as specified.

ANALYSIS:

Existing law:

1) Provides that the PRA may be amended by statute if, among other things, the bill in its final form has been delivered to the Fair Political Practices Commission (FPPC) for distribution to the news media and to persons who have requested to receive copies of such bills at least twelve days before passage in each house.

2) Requires the Legislative Counsel to make specified information pertaining to legislative measures publicly available in electronic form on a computer network, including the text, bill history, and bill status of each bill introduced in each current legislative session.

3) Provides that the Legislature may amend the PRA to further the act's purposes upon a two-thirds vote of each house of the Legislature and compliance with specified procedural requirements.

This bill:

1) Requires bills amending to the PRA be in final form at least eight days before passage in each house.

2) Requires bills amending the PRA to be in final form at least twelve days before passage in each house if the previous form of the bill did not amend the PRA.

3) Requires Legislative Counsel to make available to the public the option to sign up to receive an email alert any time any of the following actions occur:

   a) A new bill that would amend the PRA is introduced.

   b) An existing bill that would amend the PRA is amended, referred to the floor or committee, voted on, or is otherwise subject to an action triggering a notification, as specified.

   c) An existing bill that would not amend the PRA is amended to include provisions that would amend the PRA.

4) Requires that these email alerts described 3) be sent in the shortest feasible time, but no later than 9 a.m. the calendar day after the legislative action that is subject to the alert. Provides that all email alerts sent regarding bills that would

amend the PRA shall include the text "Political Reform Act Bill" in the email subject line, as specified.

Background

PRA Amendment Deadline Prior to Passage in Each House. The PRA passed in 1974 originally had a requirement that bills be in print in final form for 40 days, but was amended in 1976 by AB 2607 (Keysor, Chapter 883, Statutes of 1976) down to 20 days and in 1985 by AB 869 (Lancaster, Chapter 1200, Statutes of 1985) down to the current twelve days.

Comments

1) According to the author, California was the first state in the nation to pass a sweeping political reform law following the Watergate scandal. Proposition 9, passed by voters in 1974 and known as the PRA, instituted numerous important transparency reforms including lobbying restrictions and reporting requirements, conflict of interest codes overseeing elected officials and public service employees, and extensive campaign disclosure mandates. The PRA granted the Legislature the authority to amend the Act with a 2/3 vote in each house. Bills amending the PRA must also be in their final form and available for public review for 12 days before being passed by the Legislature.

   Important reforms to the PRA have been impeded by timing conflicts between end-of-session Legislative deadlines and the 12-day final form requirement. The legislative calendar currently makes it difficult for PRA reform bills to succeed at the end of the legislative session with the Appropriations Committee's Suspense hearings leaving little time for critical amendments. In some instances, the Committee may amend a PRA bill after the 12-day deadline has passed - making it impossible for the Legislature to vote on it. Extended periods for public review of these bills is vital to ensuring government accountability and transparency, however, the current timeline dates back to 1985 before the advent of the modern internet when physical copies of bills were distributed by mail.

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

According to the Assembly Appropriations Committee:

- Minor and absorbable costs to the Fair Political Practices Commission (FPPC) to update informational materials and legislative tracking practices.

- Costs of approximately $20,000 to the LC to create the email alert option.

SUPPORT: (Verified 9/12/23)

California Clean Money Campaign
Fair Political Practices Commission

OPPOSITION: (Verified 9/13/23)

California Federation of Teachers, AFL-CIO

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/13/23 20:39:14

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

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

UNFINISHED BUSINESS

Bill No: SB 686
Author: Durazo (D), et al.
Amended: 9/8/23
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 4/26/23
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas
NOES: Wilk

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 24-8, 5/26/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Bradford, Cortese, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Newman, Padilla, Portantino, Roth, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener
NOES: Dahle, Jones, Min, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Alvarado-Gil, Blakespear, Caballero, Dodd, Glazer, Grove, Rubio, Stern

ASSEMBLY FLOOR: Not available

SUBJECT: Domestic workers: occupational safety

SOURCE: California Domestic Workers Coalition
California Employment Lawyers Association
California Immigrant Policy Center
Equal Rights Advocates
Worksafe

DIGEST: This bill makes specified changes to occupational safety law as it pertains to domestic workers including removing the "household domestic service" exemption from the Occupational Safety and Health Act definition of employment;

requiring the Division of Occupational Safety and Health (Cal/OSHA) to adopt industry guidance to assist household domestic service employers understand their legal obligations that would now apply to them; and requiring all household domestic services employers to comply with, and adhere to, all applicable occupational safety and health regulations by January 1, 2025.

Assembly Amendments strike Legislative findings and provisions that would have appropriated funds to establish a Household Domestic Services Employment Safety and Technical Assistance program to provide one-time grants and technical assistance to household domestic service employers, as specified, and make the effective date of the bill's provisions January 1, 2025.

ANALYSIS:

Existing law:

1) Assures, under the California Occupational Safety and Health Act (OSHA), safe and healthful working conditions for all California workers by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe and healthful working conditions, and by providing for research, information, education, training, and enforcement in the field of occupational safety and health. (Labor Code §6300)

2) Establishes the Cal/OSHA within the Department of Industrial Relations (DIR) to propose, administer, and enforce safety and health standards.(Labor Code §6300 et seq.)

3) Establishes within DIR, the Division of Fair Labor Standards Enforcement (DLSE) lead by the Labor Commissioner, tasked with administering and enforcing labor code provisions. (Labor Code §56)

4) Establishes the Occupational Safety and Health Standards Board, within DIR, to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthful workplace for workers. (Labor Code §140-147.6)

5) Requires employers to establish, implement and maintain an effective Injury and Illness Prevention Program (IIPP) that is written and includes, among other things, the following elements (Labor Code §6401.7):

    a) A system for identifying and evaluating workplace hazards.

    b) Methods and procedures for correcting unsafe or unhealthy conditions.

c) A training program, as specified.

d) A system for communicating on occupational health and safety matters, including provisions to encourage employees to inform the employer of hazards at the worksite without fear of reprisal.

6) Requires that employers file a report with Cal/OSHA of every occupational injury or illness to each employee, as specified.(Labor Code §6409.1)

7) Defines, for purposes of OSHA, "employment" to include the carrying on of any trade, enterprise, project, industry, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged or permitted to work for hire, except household domestic service. (Labor Code §6303)

8) Defines "domestic work" as services related to the care of persons in private households or maintenance of private households or their premises. Domestic work occupations include childcare providers, caregivers of people with disabilities, sick, convalescing, or elderly persons, house cleaners, housekeepers, maids and other household occupations. (Labor Code §1451)

9) Regulates, under the Domestic Worker Bill of Rights, the hours of work of certain domestic work employees by requiring overtime compensation for any hours worked over nine in one day or over 45 hours in a workweek, as specified. (Labor Code §1450-1454)

10) Requires the chief of Cal/OSHA to convene an advisory committee for the purposes of creating voluntary guidance and making recommendations to DIR and the Legislature on policies the state may adopt to protect the health and safety of private household domestic service employees. (Labor Code §6305.1)

11) States that in making these recommendations, the advisory group shall consider, among other things, how to protect the privacy of individuals who employ domestic workers in their private residences in the context of future potential enforcement of health and safety standards, orders, and regulations, including applicability to household domestic service employers of the existing civil monetary penalty structure for violations and consider the need to develop industry-specific requirements. (Labor Code §6305.1)

12) Requires the DLSE, upon appropriation, to establish and maintain an outreach and education program to promote awareness of, and compliance with, labor protections that affect the domestic work industry. (Labor Code §1455)

This bill:

1) Makes findings and declarations highlighting, among other things, the challenges faced by domestic workers and the need to remove the household domestic services exclusion from the definition of employment.

2) Amends, beginning January 1, 2025, the definition of "employment" under existing law to, except as specified, remove the household domestic service exception, thereby applying all OSHA provisions to domestic workers and their employers and include the carrying on of any trade, enterprise, project, industry, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged or permitted to work for hire, except household domestic service.

3) Specifies that "employment" does not include either of the following:

   a) Household domestic service that is publicly funded, including service provided to a recipient, client, or beneficiary with a share of cost in that service, unless subject to Section 3342 or 5199 of Title 8 of the California Code of Regulations.

   b) Family daycare homes, as defined.

4) Requires that Cal/OSHA, by January 1, 2025, adopt industry guidance to assist household domestic service employers on their legal obligations under existing occupational safety and health laws and regulations that will apply to them.

5) Requires household domestic services employers to comply with, and adhere to, all applicable occupational safety and health regulations by January 1, 2025.

6) Authorizes Cal/OSHA, if the division determines that additional industry-specific regulations are necessary, to propose those to the standards board for its review and the standards board shall adopt regulations by January 1, 2026.

7) Modifies the existing domestic worker outreach and education provisions to:

a) Specify that CBOs will be responsible for developing and consulting with Cal/OSHA regarding the core education and outreach materials on health and safety standards, retaliation, and the division's workplace safety complaint and retaliation process, including specific issues that affect the domestic work industry differently.

b) Specify that CBOs will be responsible for all costs related to the development, printing, advertising, or distribution of the materials.

c) Require the materials to be translated into non-English languages, specified.

d) Require the Chief of Cal/OSHA, representatives of the consultation services and enforcement branches and CBOs to meet quarterly, as specified, to coordinate efforts around outreach, education, and enforcement that will shape and inform the overall strategies.

e) Specify that both the DLSE and Cal/OSHA shall not expend more than 5 percent of the budget allocation on the administration of the program.

Background

The concept of removing the domestic worker exclusion from the definition of "employment" for OSHA purposes has been the subject of several bills dating back to AB 889 (Ammiano, 2011). The first successful change to the industry was in 2013, when AB 241 (Ammiano, Chapter 374, Statutes of 2013) enacted the Domestic Worker Bill of Rights to regulate the hours of work of certain domestic work employees and provide an overtime compensation rate for these workers who were not previously entitled to overtime compensation. More recently, in 2019, SB 83 (Committee on Budget and Fiscal Review, Chapter 24, Statutes of 2019) established the domestic worker outreach and education program within DLSE to, until July 1, 2024, promote awareness of, and compliance with, labor protections that affect the domestic work industry. In 2021, SB 321 (Durazo, Chapter 332, Statutes of 2021) required that Cal/OSHA convene an advisory committee to provide voluntary guidance and make recommendations on policies the state may adopt to protect the health and safety of privately funded household domestic service employees.

This year, AB 130 (Committee on Budget, Chapter 39, Statutes of 2023) deleted the sunset date on the outreach and education program thereby making those provisions permanent.

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information on the history of the issue and prior legislation.]

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

According to Assembly Appropriations Committee:

1) Costs of approximately $44 million in the first year and $42 million annually thereafter to Cal/OSHA to adopt industry guidance, propose and adopt additional regulations if necessary, and provide enforcement of applicable regulations, although the amount of resources to be allocated to each duty is unclear. The Department of Finance's analysis of this bill notes Cal/OSHA-related activities are traditionally funded from employer assessments, but "Because of the inability to assess a fee on private homeowners employing domestic service employees, it is assumed enforcement costs as a result of this bill will be borne by the General Fund."

2) Ongoing cost pressures of an unknown, but likely minor, amount to Cal/OSHA by expanding the scope of the Education Program to require Cal/OSHA to consult and meet quarterly with CBOs regarding core materials and enforcement strategies. The Budget Act of 2023 appropriates $35 million to Cal/OSHA to administer existing provisions of the Education Program, which is available for encumbrance and expenditure until June 30, 2029 (Labor and Workforce Development Fund).

3) Ongoing cost pressures of an unknown, but likely significant, amount to Cal/OSHA to provide one-time grants to employers under the TA Program (General Fund). Establishment of the TA Program is contingent on an appropriation, but funding for this purpose was not included in the Budget Act of 2023.

SUPPORT: (Verified 9/11/23)

California Domestic Workers Coalition (co-source)
California Employment Lawyers Association (co-source)
California Immigrant Policy Center (co-source)
Equal Rights Advocates (co-source)
National Union of Healthcare Workers (co-source)
Worksafe (co-source)
AAPIs for Civic Empowerment Education Fund

All Home
Asian Pacific Environmental Network
Bay Rising
Berkeley Labor and Occupational Health Program
Bet Tzedek Legal Services
Black Women for Wellness
Breast Cancer Prevention Partners
California Commission on Aging
California Labor Federation, AFL-CIO
California League of United Latin American Citizens
California Legislative Women's Caucus
California for a Healthy & Green Economy
California Rural Legal Assistance Foundation
California Work & Family Coalition
Caminante Cultural Foundation
Caring Across Generations
Catalyst Project
Change Californians for a Healthy and Green Economy
Chinese for Affirmative Action
Chinese Progressive Association
Clean Carwash Worker Center
Coalition for Humane Immigrant Rights
Day Worker Center of Mountain View
Disability Rights California
Dolores Street Community Services
El Centro Cultural De Mexico, Santa Ana
El/la Para Trans Latinas
Empowering Pacific Islander Communities
Filipino Advocates for Justice
Filipino Community Center
Filipino Migrant Center
First Mennonite Church of San Francisco
Gabriela Oakland
Grace End Child Poverty Institute
Grace Institute - End Child Poverty in California
Hand in Hand: the Domestic Employers Network
Impact Sport Philanthropy
Instituto De Educacion Popular Del Sur De California
Jobs with Justice San Francisco
La Colectiva de Mujeres, Dolores Street Community Services

Motivating Our Students Through Experience
Mujeres Unidas Y Activas
Multicultural Institute
National Domestic Workers Alliance
National Employment Law Project
National Women's Political Caucus of California
North Bay Jobs with Justice
North Bay Labor Council
Nuestras Manos
Or Shalom Jewish Community
Physicians for Social Responsibility - Los Angeles
Pilipino Association for Workers and Immigrants - South Bay
Pilipino Workers Center
Pomona Economic Opportunity Center
Raizes Collective
Restaurant Opportunities Center of Los Angeles
San Francisco Living Wage Coalition
SEIU California
Senior & Disability Action
Showing Up for Racial Justice Bay Area
Southern California Coalition for Occupational Safety and Health
The Restaurant Opportunities Center of Los Angeles
Trabajadores Unidos Workers United
UCLA Labor Center
UCLA Labor Occupational Safety & Health Program
US Academy for Training & Job Placement for Immigrant Community Services
Vision Y Compromiso
Voices for Progress
Warehouse Worker Resource Center
Women's Foundation California
Women's Voices for The Earth
Working Partnerships USA
Worksafe
34 individuals

OPPOSITION: (Verified 9/11/23)

None received

ARGUMENTS IN SUPPORT: According to the California Immigrant Policy Center, one of the co-sponsors of this bill, "In California, there are over 300,000

domestic workers, 75 percent of whom are immigrant women of color, who have been historically excluded from the most basic labor protections." They argue that, "Climate accelerated disasters have also magnified the vulnerability and dangers that domestic workers and day laborers face on a daily basis. During the wildfires that devastated California, domestic workers and other household workers were asked to stay behind to fight fires, guard homes or pets, work in smoky conditions, and clean up toxic ash. Workers were further put at risk when employers failed to tell them that the homes they work in were under mandatory evacuation. The growing frequency and intensity of wildfires, flooding, and other extreme weather events make it imperative that legislators take immediate legislative action to protect the health and safety of these workers."

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
9/13/23 20:59:53

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

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

UNFINISHED BUSINESS

Bill No: SB 695
Author: Gonzalez (D), et al.
Amended: 9/7/23
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 14-0, 3/28/23
AYES: Gonzalez, Niello, Allen, Becker, Blakespear, Cortese, Dodd, Limón, McGuire, Newman, Nguyen, Seyarto, Umberg, Wahab
NO VOTE RECORDED: Archuleta, Dahle

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/30/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Department of Transportation: internet website: state highway system data and information

SOURCE: Streets For All
Transportation California

DIGEST: This bill requires the California Department of Transportation (Caltrans) to compile and make available data and information on its website, as specified, about projects on the state highway system for the last five years, by January 1, 2025, and, as of January 1, 2026, to report the data every year thereafter. This bill requires Caltrans to also include data and information on planned, pending projects on the state highway system. This bill requires Caltrans to

develop a format, in consultation with the California Transportation Commission (CTC), for the data and information, and to present the data and information to the CTC at a regularly scheduled meeting on or before April 1, 2025, and April 1st every year thereafter.

Assembly Amendments delete the requirement that the data and information be included in the CTC Annual Report, and instead require Caltrans to develop a format, in consultation with the CTC, for the data and information, and to present the data and information to the CTC at a regularly scheduled meeting on or before April 1, 2025, and April 1st each year thereafter. Delay the annual report to begin January 1, 2026. Make technical and clarifying changes to data points required, including adding the number of homes and businesses that were relocated due to the acquisition of rights-of-way for the new lane miles on the state highway system.

ANALYSIS:

Existing law:

1) Establishes Caltrans and vests the department with full possession and control of all state highways and all property and rights in property acquired for state highway purposes.

2) Requires Caltrans to improve and maintain state highways.

3) Creates the CTC and vests it with various responsibilities, including programming and allocating funds for the construction of highway, passenger rail, transit, and active transportation improvements through various transportation programs.

This bill:

1) Requires Caltrans to prepare and make available on its internet website, no later than January 1, 2025, historical data and information, as specified, about projects on the state highway system on a fiscal year basis from July 1, 2018, to June 30, 2023.

2) Requires Caltrans, beginning January 1, 2026, to prepare and make available on its internet website data and information, as specified, about projects on the state highway system covering the prior fiscal year on an annual basis by January 1st of each year. Requires the first report to include information covering two prior fiscal years, as specified.

3) Requires Caltrans to develop a format for the required data and information in consultation with the CTC.

4) Requires Caltrans to present the required data and information to the CTC at a regularly scheduled meeting on or before April 1, 2025, and each April 1st thereafter.

5) Requires historical data and information including, but is not limited to, all of the following:

   a) The number of total lane miles in the state highway system.

   b) The number of new total lane miles added to the state highway system.

   c) Of the lane miles added to the state highway system, a breakdown of the number of miles added by type, including, but not limited to, general purpose lanes, auxiliary lanes, managed lanes, including high-occupancy vehicle lanes, and interchanges, as well as information on improvements to interchanges.

   d) A project description of each project that added lane miles to the state highway system.

   e) The number of miles of the state highway system that were relinquished.

   f) The number of miles of the state highway system that were converted from a general purpose lane to a managed lane, including a high-occupancy vehicle lane, and a high-occupancy vehicle lane to a high-occupancy toll or other type of lane.

   g) The number of homes and businesses that were relocated due to the acquisition of rights-of-way for the new lane miles on the state highway system.

   h) The number of new bike lane miles added to state highways, broken down by Class I, Class II, Class III, and Class IV.

   i) The number of new sidewalk miles added to state highways and the number of existing sidewalks that were reconstructed to improve accessibility and the safety of pedestrians.

6) Requires Caltrans to also prepare and make available on its internet website, no later than January 1, 2025, data and information on planned, pending projects on the state highway system, including:

a) The description of each project, including the location. Requires the location information to allow the public to clearly understand where the project is being undertaken and may include, to the extent available, specific highway routes, project boundaries, and geolocation data.

b) The date each project initiation document was completed.

c) The status of each project including the current phase of development, designated as environmental, design, right-of-way, or construction.

d) A determination of the primary purpose and need of each project, if available.

7) Requires Caltrans include additional data going forward, as specified, as part of the data and information due annually by January 1st, including:

a) A quantification of an increase or decrease in greenhouse gas (GHG) emissions associated with the lane miles added to the state highway system, if available.

b) A quantification of an increase or decrease in vehicle miles traveled on the state highway system associated with the lane miles added to the state highway system.

c) A quantification of the mitigation required as part of the projects that resulted in additional lane miles on the state highway system, as specified.

d) The number of connections made with locally owned bike and walk facilities.

Comments

1) *Purpose of the bill.* According to the author, "California continues to work to better align our transportation planning and project decisions with our climate and equity goals, while increasing safety and mobility. As our highways become more congested, research has shown we can't simply build our way out of the problem. At the same time, California must continue to invest in maintaining our surface transportation network to support mobility and the economy. Historically, the buildout of our state's highways has disproportionately impacted communities of color, separated neighborhoods, and increased exposure to air pollution from cars and trucks, roadway noise, and safety concerns.

"In order to make informed policy and funding decisions about our transportation system, we need more transparency and a better understanding of the projects on our state's highways. However, a full range of transportation investment data is not currently available to lawmakers, stakeholders, researchers, and communities. SB 695, the State Highway System Transparency Act, will provide that transparency by requiring Caltrans to collect and make available to the public data detailing lane miles added to the state highway system in the last ten years and to continue to report this data every year going forward. The bill also requires Caltrans to detail what planned projects are in the pipeline. Access to this information would help ensure that our transportation and climate goals align and provide transparency on where projects are so we prevent any increased undue emission burdens on communities of color."

2) *California State Highway System*. California has a large network of highways and local streets and roads, consisting of almost 400,000 lane miles of pavement and over 25,000 bridges. The state highway system, owned and managed by Caltrans, is made up of roughly 50,000 lane miles and 13,000 bridges, including both federal and state highways. The state highway system provides mobility to millions of Californians, and serves as a major lifeline for goods movement, shepherding billions of dollars of products throughout the state every year. In fact, the movement of freight generates about one-third of California's economy. State highways also support our state's transit systems, provide biking and walking opportunities, and serve as a main thoroughfare in many areas, especially rural parts of the state.

3) *We can't build our way out of congestion.* For many decades the state relied on highway expansion to address both traffic congestion and the increased movement of people and goods on the state highway system. However, research has shown that adding highway capacity does not equate to long-term congestion relief. According to the University of California Institute of Transportation Studies (UC ITS), "studies consistently show that adding capacity to roadways fails to alleviate congestion for long because it actually increases VMT." Further, "an increase in VMT attributable to increases in roadway capacity where congestion is present is called 'induced travel.' The basic economic principles of supply and demand explain this phenomenon: adding capacity decreases travel time, in effect lowering the 'price' of driving; and when prices go down, the quantity of driving goes up. Induced travel counteracts the effectiveness of capacity expansion as a strategy for alleviating traffic congestion and offsets in part or in whole reductions in GHG emissions that would result from reduced congestion."

4) *Fix it first.* In 2017, the Legislature passed and Governor Brown signed into law, SB 1 (Beall, Chapter 5, Statutes of 2017), which provided roughly $5.2 billion annually for highways, local streets and roads, public transit, and bicycle and pedestrian facilities; recognized the need to prioritize maintenance and better utilize the system we have. "Fix it first" was the guiding principle of SB 1, or focusing the state's transportation spending to maintain a state of good repair of the existing system.

   SB 1 included specific performance outcomes for Caltrans to meet for the state highway system by 2027, through investments in the State Highway Operations Protection Program (SHOPP) and maintenance programs, including not less than 98 percent of pavement on the state highway system in good or fair condition; not less than 90 percent level of service achieved for maintenance of potholes, spalls, and cracks; not less than 90 percent of culverts in good or fair condition; not less than 90 percent of the transportation management system units in good condition; and to fix not less than an additional 500 bridges.

   SB 1 represented a fundamental shift away from continuing to expand highway capacity to a focus on maintaining and operating the existing system. Even with the funding in SB 1 dedicated to the upkeep of the state highway system, the most recent State Highway System Management Plan estimates the annual funding shortfall for the state highway system is $5 billion per year.

5) *CAPTI continues the evolution.* On September 20, 2019, Governor Newsom issued Executive Order (EO) N-19-19, which called for actions from multiple state agencies to reduce GHG emissions and mitigate the impacts of climate change. The EO detailed the role the transportation sector must play in combating climate change. Specifically, the EO empowered the California State Transportation Agency (CalSTA) to leverage the more than $5 billion in annual state transportation spending for construction, operations, and maintenance to help reverse the trend of increased fuel consumption and reduce GHG emissions associated with the transportation sector. The EO directed CalSTA to work to align transportation spending with the state's Climate Change Scoping Plan, where feasible; direct investments to strategically support smart growth to increase infill housing production; reduce congestion through strategies that encourage a reduction in driving and invest further in walking, biking, and transit; and ensure that overall transportation costs for low income Californians do not increase as a result of these policies.

   To that end, CalSTA adopted the Climate Action Plan for Transportation Infrastructure (CAPTI) in July 2021. The CAPTI is the action plan to

implement the EO. Specifically, the CAPTI is "a framework and statement of intent for aligning state transportation infrastructure investments with state climate, health, and social equity goals, built on the foundation of the 'fix-it-first' approach established in SB1."

The CAPTI contains an overall transportation investment framework and specific strategies to implement the plan through state agency actions. CAPTI included a discussion of the state's approach to highway expansion projects, recognizing that one size does not fit all. The CAPTI included this guiding principle of, "promoting projects that do not significantly increase passenger vehicle travel, particularly in congested urbanized settings where other mobility options can be provided and where projects are shown to induce significant auto travel. These projects should generally aim to reduce VMT and not induce significant VMT growth. When addressing congestion, consider alternatives to highway capacity expansion, such as providing multimodal options in the corridor, employing pricing strategies, and using technology to optimize operations."

6) *Lack of data to make informed decisions.* As discussed, as a state, we continue to work to better align our transportation planning and project decisions with our climate and equity goals, while increasing safety and mobility. Trying to balance these concerns requires a better understanding of recent projects on the state highway system and what planned projects are in the pipeline.

   Several requests for data similar to what is required in SB 695 have been made to both Caltrans and CalSTA from a wide variety of stakeholders, including Transportation California, the sponsors of SB 695, and a coalition of environmental advocates. Additionally, the Chair of the Assembly Transportation Committee, Assembly Member Laura Friedman, sent a letter to Caltrans in August of 2022 requesting project description information for the state highway system and how the projects fit into regional transportation plans/sustainable communities strategies.

   To date, the specific data requested has not been provided, however, CalSTA is working to analyze the effects of CAPTI by measuring outcomes of projects funded through state programs. The data will likely be high level, measuring things such as overall VMT change, GHG emissions, job creation, and equity.

7) *SB 695 brings transparency.* SB 695 will provide an initial and ongoing set of data and detailed information on state highways system investments to allow the public to better understand the pattern and types of projects moving through the state development pipeline. This new transparency will provide lawmakers,

stakeholders, and the public with critical information needed to make fact-based decisions about state and local transportation policy and funding priorities.

Specifically, SB 695 requires Caltrans, by January 1, 2025, to collect, and make available on its website, historical data on projects on the state highway system for the last five years, and, starting January 1, 2026, to report this data every year going forward. Examples of the data sought include new lane miles added to the system by type; such as general purpose lanes, auxiliary lanes, managed lanes, such as high-occupancy vehicle lanes, and interchanges; descriptions of individual projects; lane miles converted to special lanes (HOV or HOT); and miles of complete streets.

In addition, to understand the impacts of such projects, the bill requires data, going forward, on the quantification of increases or decreases of GHG emissions and VMT. The bill also requires Caltrans to report on planned and pending projects on the state highway system, including the projects' purpose and need.

Finally, SB 695 requires Caltrans to work with the CTC to develop a format for the delivery of the data and information, and requires Caltrans to present the data and information at a public CTC meeting on or before April 1st each year.

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

According to the Assembly Appropriations Committee:

- The committee assumes significant one-time costs to Caltrans in fiscal year 2023-24, mainly in programming and software costs, to implement this bill, potentially in mid to high hundreds of thousands of dollars (special fund). Ongoing costs will likely be in the hundreds of thousands of dollars, representing staff time to collect, organize and publish data and information (special fund).

- Caltrans estimates costs to implement this bill to be $406,000 one-time for a research data specialist ($174,000) and a senior transportation engineer ($232,000) to collect, organize and report data, and $330,000 in annual ongoing costs for a transportation engineer ($190,000) and a research data analyst ($140,000).

SUPPORT: (Verified 9/8/23)

Streets For All (co-source)
Transportation California (co-source)

Active San Gabriel Valley
American Council of Engineering Companies
Associated General Contractors of California
California Alliance for Jobs
California Asphalt Pavement Association
California Association of Councils of Governments
California Bicycle Coalition
California Construction & Industrial Materials Association
California State Council of Laborers
Circulate San Diego
City of Rancho Cucamonga
Climate Resolve
Costa Mesa Alliance for Better Streets
Culver City Democratic Club
Engineering & Utility Contractors Association dba. United Contractors
Happy City Coalition
International Union of Operating Engineers
Marin County Bicycle Coalition
Move Santa Barbara County
Natural Resources Defense Council
Northern California Association of Commuter Transportation
Norwalk Unides
Rebuild SoXal Partnership
San Diego County Bicycle Coalition
Santa Ana Active Streets
Southern California Contractors Association
Stop4aidan
Streets are For Everyone
Telegraph for People
United Contractors

OPPOSITION: (Verified 9/8/23)

None received

ARGUMENTS IN SUPPORT: Writing as the sponsor of this bill, Transportation California states, "Balancing multiple vital goals (economy, mobility, climate, safety, equity, environment, etc.) and maximizing benefits from every taxpayer dollar invested requires a better understanding of what projects have been funded, the anticipated and actualized outcomes of those projects.

“SB 695 takes an important step in providing greater transparency and understanding of our SHS. We need better data so we can make informed policy and funding decisions that allows us to provide safe, convenient, efficient, and affordable transit options; support bicycle and pedestrian mobility; and maintain our roads; support goods movement and economic competitiveness; relieve congestion; and to ensure people can get to their jobs and homes safely.”

Prepared by: Melissa White / TRANS. / (916) 651-4121
9/13/23 20:45:22

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

SENATE RULES COMMITTEE SB 700
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 700
Author: Bradford (D)
Amended: 9/1/23
Vote: 21

SENATE JUDICIARY COMMITTEE: 7-2, 4/11/23
AYES: Umberg, Allen, Ashby, Laird, McGuire, Min, Wiener
NOES: Wilk, Niello
NO VOTE RECORDED: Durazo, Stern

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 3-0, 4/26/23
AYES: Cortese, Laird, Smallwood-Cuevas
NO VOTE RECORDED: Wilk, Durazo

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 29-9, 5/30/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Grove, Hurtado, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Alvarado-Gil, Rubio

ASSEMBLY FLOOR: Not available

SUBJECT: Employment discrimination: cannabis use

SOURCE: Author

DIGEST: This bill adds to the prohibitions under the Fair Housing and Employment Act (FEHA), set to take effect January 1, 2024, on employment discrimination on the basis of an employee's or potential employee's cannabis use, to prohibit an employer from requesting information about an employee or applicant's past cannabis use, subject to specified exceptions.

Assembly Amendments modify the provision addressing when an employer or potential employer may discriminate on the basis of prior cannabis use obtained through the employee's or applicant's criminal history, to clarify that they may do so only where authorized by other state or federal law.

ANALYSIS:

Existing law:

1) Provides, pursuant to the California Constitution, that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const., article I, § 1.)

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, with the goal of ensuring that seriously ill Californians have the right to obtain and use marijuana for medical purposes where the medical use is deemed appropriate and has been recommended by a physician, as specified. (Health & Saf. Code, § 11362.5.)

3) Authorizes, pursuant to Proposition 16 and subsequent Legislative measures, persons aged 21 and older to possess specified quantities of cannabis, products containing cannabis, and cannabis plants for personal use. (Health & Saf. Code, §§ 11362.1.)

4) Provides that 3) does not override laws prohibiting the operation of a vehicle while impaired by a controlled substance, laws prohibiting the use of cannabis while within a prison or other carceral facility, laws establishing that it would constitute professional malpractice or negligence to undertake any task while impaired, or laws allowing any state or local entity or private individual to prohibit or restrict the use of cannabis on their property. (Health & Saf. Code, § 11362.45.)

5) Makes it an unlawful employment practice, under the Fair Employment and Housing Act (FEHA), for an employer to refuse to hire, discharge from employment, or otherwise discriminate against a person in compensation or in the terms, conditions, or privileges of employment on account of that person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status. (Gov. Code, § 12940(a).)

6) Makes, beginning January 1, 2024, it an unlawful employment practice under FEHA for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalizing a person, if the discrimination is based upon any of the following:

   a) The person's use of cannabis off the job and away from the workplace; this provision does not prevent an employer from engaging in an employment action based on a scientifically preemployment drug screening conducted through methods that do not screen for nonpsychoactive cannabis metabolites.
   b) An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids. (Gov. Code, § 12954(a), (f).)

7) Provides exceptions and clarifications to 6), as follows:

   a) Provides that 6) does not permit an employee to possess, to be impaired by, or to use, cannabis on the job, or affects the rights or obligations of an employer to maintain a drug- and alcohol-free workplace as specified under existing law.
   b) Provides that 6) does not apply to an employee in the building and construction trades.
   c) Provides that 6) does not apply to applicants or employees hired for positions that require a federal government background investigation or security clearance in accordance with federal regulations.
   d) Provides that 6) does not preempt state or federal laws requiring applicants or employees to be tested for controlled substances, including laws and regulations requiring applicants or employees to be tested, or the manner in which they are tested, as a condition of employment, receiving federal funding or federal licensing-related benefits, or entering into a federal contract. (Gov. Code, § 12954(b)-(e).)

This bill:

1) Adds, to the existing FEHA prohibition on discrimination on the basis of cannabis use and exceptions, a provision making it unlawful for an employer to request information from an employee or applicant relating to the employee or applicant's prior use of cannabis.

2) Provides that, notwithstanding 1), information about a person's prior cannabis use obtained from a person's criminal history is subject to the general prohibition on discrimination on the basis of cannabis use, unless the employer is permitted to consider or inquire about that information pursuant to state or federal law.

3) Makes technical and nonsubstantive conforming changes.

Comments

California has permitted medical cannabis use since 1996, when the voters approved Proposition 215.[1] Adult recreational cannabis use was approved by the voters in 2016,[2] and the Legislature subsequently enacted the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) to streamline and synthesize the licensing and regulatory regimes for medical and recreational cannabis.[3] Until 2022, however, employers were still permitted to discriminate on the basis of entirely legal cannabis usage that was off the job and did not affect an applicant's or employee's job performance.

To prevent adverse employment outcomes from being taken against Californians who used cannabis as permitted by state law, the Legislature enacted AB 2188 (Quirk, Ch. 392, Stats. 2022), which made it unlawful under FEHA, with certain exceptions, for an employer to discriminate against a person in hiring, termination, or terms and conditions of employment because of (1) the person's off-the-job cannabis usage, or (2) a drug-screening test that found nonpsychoactive cannabis metabolites in the person's system. The bill exempted from its scope employers who require federal security clearances or whose cannabis usage may otherwise be at issue under federal law or hiring practices.

---

[1] Compassionate Use Act (Prop. 215), as approved by voters, Gen. Elec. (Nov. 5, 1996).
[2] The Control, Regulate, and Tax Adult Use of Marijuana Act (Prop. 64), as approved by voters, Gen. Elec. (Nov. 8, 20216).
[3] SB 94 (Senate Committee on Budget and Fiscal Review, Ch. 27, Stats. 2017).

According to the author, some employers also ask about applicants' past cannabis use. To avoid any possible confusion or inadvertent discrimination, this bill expressly prohibits an employer from requesting information from an employee or applicant about their prior use of cannabis. The bill also clarifies that, if an employer obtains information about an employee or applicant's cannabis use through the employee or applicant's criminal history, they may not discriminate on the basis of that past use unless otherwise permitted by state or federal law. Additionally, the existing exceptions—such as allowing employers or potential employers to inquire about cannabis use for purposes of a federal background check—apply to the prohibition added by the bill.

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

According to the Assembly Appropriations Committee, this bill presents costs of approximately $252,000 in fiscal year 2024-25 and $250,000 annually thereafter to the Civil Rights Department for two additional staff positions to handle intakes and investigations related to prohibited information requests (General Fund).

SUPPORT: (Verified 9/13/23)

Americans for Safe Access
California Cannabis Industry Association
California Employment Lawyers Association
California NORML
The Parent Company
United Food & Commercial Workers Western States Council

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to California NORML:

> California NORML wishes to express our support for SB 700 (Bradford), which clarifies the intent of California's law banning employment discrimination for cannabis use off the job. That law, which we sponsored last year (AB 2188 Quirk – GC 12954), makes it unlawful for employers to discriminate against workers in hiring or employment based on their "use of cannabis off the job and away from the workplace," effective Jan 1, 2024.
>
> It has been brought to our attention that some employers have a policy of asking prospective employees about their prior use of cannabis. This

practice is clearly inconsistent with the intent of AB 2188, since prior use of cannabis is irrelevant to a worker's present use of cannabis on the job or in the workplace.

SB 700 addresses this problem by explicitly making it unlawful for employers to "request information from an applicant for employment relating to the applicant's prior use of cannabis."

SB 700 preserves other provisions in AB 2118, such as exemptions for employers subject to federal regulation or in the construction industry.

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
9/13/23 20:40:45

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

SENATE RULES COMMITTEE SB 717
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 717
Author: Stern (D)
Amended: 9/1/23
Vote: 21

SENATE HEALTH COMMITTEE: 11-0, 4/19/23
AYES: Eggman, Nguyen, Dahle, Glazer, Gonzalez, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: County mental health services

SOURCE: Author

DIGEST: This bill requires an individual who has a misdemeanor charge or charges that are dismissed by the court, who is found incompetent to stand trial (IST), and who is not receiving court directed services to be notified by the court of their need for mental health services, as evidenced by having been found IST. Requires a county behavioral health department to make these individuals a top priority for engagement of mental health services.

Assembly Amendments delete the provision in this bill that required a county to maintain contact with these individuals for 180 days after release, and instead

require a court to notify them of their need for mental health services, and require a county behavioral health department to make these individuals a top priority for engagement of mental health services.

ANALYSIS:

Existing law:

1) Establishes the Bronzan-McCorquodale Act (BMA) to organize and finance community mental health (MH) services for those with MH disorders in every county through locally administered and controlled community MH programs. Requires the mission of California's mental health system to be to enable persons experiencing severe and disabling mental illnesses and children with serious emotional disturbances to access services and programs that assist them, in a manner tailored to each individual, to better control their illness, to achieve their personal goals, and to develop skills and supports leading to their living the most constructive and satisfying lives possible in the least restrictive available settings. [WIC §5600, et seq.]

2) Specifies that community MH services should be organized to provide an array of treatment options in the following areas, to the extent resources are available: precrisis and crisis services; comprehensive evaluation and assessment; individual service plans; medication education and management; case management; 24-hour treatment services; rehabilitation and support services; vocational rehabilitation; residential services; services for the homeless; and, group services, as specified. [WIC §5600.4]

3) Deems that, to the extent resources are available, the primary goal of the use of funds deposited in the mental health account of the local health and welfare trust fund should be to serve the target populations, which includes adults and older adults who have a serious mental disorder who are arrested or convicted of crimes. [WIC §5600.3]

4) Requires the trial, judgment, or hearing on the alleged violation to be suspended if a defendant is found mentally incompetent and authorizes a court to either:

    a) Make a finding that the defendant is an appropriate candidate for diversion and, if the defendant is eligible, to grant diversion for a period not to exceed one year. Prohibits a defendant from being deemed incompetent to stand trial (IST) upon dismissal of charges at the conclusion of the period of diversion; or,

b) Dismiss the charges, as specified. Requires the court, if the criminal action is dismissed, to transmit a copy of the order of dismissal to the county behavioral health director or the director's designee. [PEN §1370.01]

5) Requires the court to dismiss the pending revocation matter and permits the return of the defendant to supervision if the defendant is found mentally incompetent and is on a grant of probation for a misdemeanor offense. Permits the court to modify the terms and conditions of supervision to include appropriate mental health treatment, as specified. [PEN §1370.01]

6) States the intent of the Legislature that a defendant subject to the terms of being found IST to receive mental health treatment in a treatment facility and not a jail. [PEN §1370.01]

This bill:

1) Requires an individual who has a misdemeanor charge or charges that are dismissed by the court, who is found IST, and who is not receiving court directed services to be notified by the court of their need for mental health services, as evidenced by having been found IST.

2) Requires a court to provide the individual with information that, at a minimum, consists of the name, address, and telephone number of the county behavioral health department; the name and contact information of the behavioral health professional that was providing services to them while incarcerated, if any; contact information for the Medi-Cal program; and, a list of available community-based organizations where the individual could obtain mental health services.

3) Requires a county behavioral health department to make these individuals a top priority for engagement of mental health services; track outreach and engagement efforts for these individuals for a period of 60 days postrelease; attempt to establish first contact within 48 hours of release to secure an individual's agreement to participate in on-going mental health treatment; and, continue to make concerted efforts to maintain contact to engage the individual in treatment at a minimum of twice a week for the first three weeks postrelease and a minimum of at least three more times before the conclusion of the 60-day period.

Comments

1) *Author's statement.* According to the author, California is facing a behavioral health crisis where an estimated 63.1% of adults with mental illness do not receive mental health treatment. As a result, vulnerable individuals are left with minimal support and resources. It is important that we do not contribute to the lack of access to treatment and work toward a solution to make mental health treatment available to those most in need. This bill works to increase access to resources to those identified as IST, have been charged with a misdemeanor, and whose cases have been dismissed by the courts. By offering up to 180 days of outreach services to individuals who are incompetent to stand trial and whose cases have been dismissed, we can bring targeted resources to an already identified impacted population.

2) *Background.* According to a report of recommendations by the IST Solutions Workgroup from November 2021, over the last decade, California has seen significant year-over-year growth in the number of individuals charged with a felony offense who are found IST and committed to the California Department of State Hospitals (DSH) for competency restoration services. California has responded to the substantial growth in the felony IST population through multiple investments to increase DSH's capacity to serve these individuals with serious mental illness. However, the growth in the felony IST patients has exceeded the capacity and outpaced other efforts to respond to the growth in the felony IST population, resulting in growing waitlist and wait times to admission. In 2015, the American Civil Liberties Union sued DSH regarding the amount of time IST defendants were waiting for admission into a DSH treatment program, alleging violations of individuals' due process rights. The Alameda Superior Court ultimately ruled that DSH must commence substantive treatment services in 28 days for felony IST patients. DSH appealed this ruling and ultimately, in the summer of 2021, the Superior Court's order was affirmed. Meanwhile, the COVID-19 pandemic has also significantly affected DSH's ability to meet the IST demands, and as of November 2021, over 1,700 individuals are awaiting restoration of competency treatment. The report further states a 2017 study conducted by the National Association of State Mental Health Program Directors Research Institute found that from 1999 to 2014, the overall number of forensic patients in state hospitals increased by 74% while the number of IST patients increased by 72% during that same period. Multiple state hospital systems across the country are facing lawsuits because of their inability to continuously increase the number of forensic inpatient beds available to admit and treat IST patients within court mandated timeframes,

including in California, which has set a 28-day post commitment deadline for DSH to begin substantive treatment of an IST ordered to DSH.

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

According to the Assembly Appropriations Committee, the courts estimate costs of an unknown amount, likely in the hundreds of thousands of dollars, in ongoing workload cost pressures to research and provide the required information to the specified population. Each individual court would need to work with their local providers to compile and keep an updated list to provide to individuals. The Judicial Council notes the requirement to provide the name and contact information of the specific professional who provided services while an individual was incarcerated creates complexity and the judicial branch is unsure of its ability to reliably gather this information for each individual who is found incompetent to stand trial (Trial Court Trust Fund).

SUPPORT: (Verified 9/13/23)

California Council of Community Behavioral Health Agencies
Depression and Bipolar Support Alliance
Los Angeles County Public Defender's Office

OPPOSITION: (Verified 9/13/23)

Judicial Council of California

ARGUMENTS IN SUPPORT: The Depression and Bipolar Support Alliance states that while 180 days may not be long enough to require contact (when possible) with IST individuals, this bill is a good start to ensure continuity of care. Anyone found incompetent to stand trial should already be receiving substantial mental health services, and hopefully this bill will do more to ensure this. The California Council of Community Behavioral Health Agencies (CBHA) states that individuals found IST on misdemeanor charges often fall through the cracks, receiving little to no mental health support. This lack of assistance can exacerbate their mental health conditions, putting them at risk for further criminal justice involvement and increased personal suffering. CBHA states the extended support as required in this bill can help prevent further deterioration of a person's mental health and reduce the likelihood of recidivism. CBHA argues by providing ongoing support to individuals found IST on misdemeanor charges, we can promote better mental health outcomes, reduce the strain on the criminal justice system, and create safer communities.

ARGUMENTS IN OPPOSITION: The Judicial Council of California (JCC) requests that the bill be amended to limit the role of courts to notify an individual of their *potential* need for mental health services if the individual has been found incompetent to stand trial and delete the other requirements on courts. JCC believes that the bill as currently in print creates an inappropriate role for courts by requiring courts to notify individuals about their need for mental health treatment. JCC also disagrees with requiring courts to provide a list of available community based organizations to individuals as it could give the appearance of courts endorsing certain programs, which JCC states is inappropriate for them.

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
9/13/23 21:04:19

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

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

UNFINISHED BUSINESS

Bill No: SB 722
Author: Ochoa Bogh (R)
Amended: 9/1/23
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 4/17/23
AYES: Alvarado-Gil, Ochoa Bogh, Menjivar, Wahab
NO VOTE RECORDED: Hurtado

SENATE JUDICIARY COMMITTEE: 11-0, 4/25/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello, Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: 77-0, 9/7/23 - See last page for vote

SUBJECT: Daycare facilities: incidental medical services plans

SOURCE: Office of the Riverside County Superintendent of Schools
Santa Clara County Office of Education

DIGEST: This bill requires the California Department of Social Services (CDSS) to develop, by January 1, 2025, template forms for plans of operation and incidental medical services plans in daycare facilities. This bill allows licensed

daycare facilities that submit an incidental medical services plan using the template form, to enroll a child prior to departmental approval.

Assembly Amendments delete provisions regarding limiting professional review, civil liability or criminal prosecution for the administration of medicine without gross negligence or willful or malicious misconduct, and add language allowing a licensed childcare facility that submits a completed incidental medical services plan, using the department created form, to enroll a child prior to departmental approval of the plan.

ANALYSIS:

Existing law:

1) Establishes the California Child Daycare Facilities Act, which creates a separate licensing category for child daycare centers and family daycare homes within DSS's existing licensing structure. (Health and Safety Code (HSC) 1596.70 et seq.)

2) Defines "child daycare facility" to mean a facility that provides nonmedical care to children under 18 years of age, as specified, including daycare centers, employer sponsored childcare centers, and family daycare homes. (HSC 1596.750)

3) Requires that any person, firm, partnership, association, or corporation operating a child day care facility in California shall have a valid license. (HSC 1596.80)

4) Requires DSS to develop guidelines and procedures to permit licensed child day care centers serving preschool-age children and licensed child day care centers serving infants to create a special toddler program component for children between the ages of 18 months and three years and requires this optional toddler program to meet certain requirements, as specified. Further requires the toddler program to be considered an extension of the infant center or preschool license. (HSC 1596.955, 1596.956)

5) Expresses the intent of the Legislature to create a child care license that has individual program components that serve infant, toddler, preschool, and school-age children, and that CDSS consider flexibility for child care providers, maximizing administrative efficiency, while supporting a continuum of services in a manner consistent with all respective health and safety requirements. (HSC 1596.951(a))

6) Defines a "day care center" to include any child day care facility other than a family day care home, including infant centers, preschools, extended day care facilities, school-age child care centers, and child care centers licensed to serve infant, toddler, preschool, and school-age children. (HSC 1596.76)

7) Defines "school-age child care center" to mean a day care center or part of a day care center that provides nonmedical care and supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of school-age children or nonminor students, or both, in a group setting for less than 24 hours per day. (HSC 1596.7915)

8) Defines "children with exceptional needs" to mean either of the following:

   a) Infants and toddlers, under three years of age, who have been determined to be eligible for early intervention services pursuant to the California Early Intervention Services Act, including an infant or toddler with a developmental delay, or an established risk condition, or who is at high risk of having a substantial developmental disability; and,

   b) Children, three to 21 years of age, who have been determined to be eligible for special education and related services by an individualized education program team, including children with intellectual disabilities, autism, hearing and other impairments as specified, who need special education and related services. (WIC 10213.5(l))

9) Requires DSS to set criteria for, and permits the department to grant specific waivers of, the prioritization categories for agencies that wish to serve specific populations, including children with exceptional needs, as specified. (WIC 10271(b)(3))

This bill:

1) Requires CDSS, by January 1, 2025, to do the following:

   a) Create a template form for plans of operations.

   b) Create a template form for incidental medical services plans.

   c) Upon completion of the above templates, revise its regulations, notices, practices, and bulletins to eliminate any requirement that an incidental medical services plan or amended plan of operation be approved before a child with exceptional needs, as defined, is allowed to attend a child daycare

or child development program.

2) Provides that a licensed child daycare facility that submits to the department a completed incidental medical services plan using the form created pursuant to the above referenced template may enroll a child prior to departmental approval of the plan.

Comments

1) *Author's statement.* According to the author, "Disproportionate access to early learning and childcare (ELC) programs limits social and emotional growth opportunities for children with disabilities and contributes to the K-12 academic achievement gap between students with and without disabilities. The latest student assessment from the California Department of Education (CDE) revealed students with disabilities performed 97.3 and 130.8 points below the state standard in English language arts and math, respectively. SB 722 will eliminate state-imposed barriers to childcare for children with disabilities by requiring the CDSS to create templates for the documents required of ELC providers and allow children with disabilities to attend ELC programs while [CDSS] reviews such documents."

2) *Individuals with Education Disabilities Act (IDEA).* In January 2017, the U.S. Education Department (ED) and the U.S. Department of Health and Human Services (HHS) issued an updated "Dear Colleague" letter promoting inclusion in early childhood programs. This updated letter outlined the ED and HHS's vision on such inclusion, as well as recommendations to states, local educational agencies (LEAs), schools, and public and private early childhood programs. According to the letter, HHS and ED did this because despite the expansion of early childhood programs, there was not a proportionate expansion of inclusive early learning opportunities for young children with disabilities so that they are able to participate in the least restrictive environment (LRE) possible. Existing federal law states that "to the maximum extent possible, children with disabilities, including children in public or private institutions or other care facilities, must be educated with children who are not disabled. Further, special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

The LRE requirements under the IDEA apply to all children with disabilities who are served under Part B of the IDEA, including preschool children with disabilities aged three through five. Additionally, states may serve, at their discretion, to two-year-old children who will turn three during the school year. All states must make a "free appropriate public education" available to all children with disabilities available beginning on a child's third birthday.

3) *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 placements for foster youth, among others. Typically, these facilities provide non-medical care and supervision for adults, children 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. CCLD is responsible for inspecting and licensing California's child care facilities CCLD is required to conduct unannounced site visits of all licensed child daycare facilities and homes. Additionally, 30 percent of their annual inspections are conducted randomly. Each facility licensed by CCLD must be visited at least once every three years, although exceptions exist that may warrant more frequent inspections.

   The two main sources of authority for CCLD activities are the California Health and Safety Code and the CCR, Title 22. CCLD must follow CCR Title 22, Division 12 when licensing and inspecting child care and school-age daycare facilities in the state. Under CCR, if a child care facility wishes to implement changes to their program, such as provide new or alternate program concepts, or make changes to the services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects, the facility would need to first request a waiver or an exception from CDSS and be approved before any changes can occur.

   The licensure, maintenance, and operation of child day care centers and family day care homes in the state are governed by the California Child Day Care Facilities Act. This law and the corresponding regulations establish, among other things, general health and safety requirements, staff-to-child ratios, and provider training requirements for licensed child care. CDSS's Child Care

Licensing Program, within the CCLD is charged with ensuring licensed child care facilities meet health and safety standards through monitoring facilities, providing technical assistance, and establishing partnerships with providers, parents, and the child care community.

4) *Plans of Operation and Incidental Medical Services Plans (IMSP).* Title 22 regulations cover child care facilities, operations and staffing. Under these regulations all ELC providers must have a Plan of Operation that is approved by CCLD. This Plan of Operation includes information about administration and staffing, admissions and rate setting policies, schedules, menus, floorplans and transportation.

   If a child with a disability requires medication or adaptive medical equipment, an ELC provider must also have an IMSP approved by the CCLD. IMSP are needed for even minor medical needs such as asthma or allergies. According to the sponsors, because there is currently no template for such plans, there is often much back and forth between providers and CDSS to get plans approved, resulting in delays in children with disabilities having access to child care slots.

5) *Improving Outcomes for Children with Disabilities.* Parents of children with disabilities experience more difficulty finding child care for their children than do parents of nondisabled children. This becomes especially concerning when coupled with studies that show early learning opportunities reduce the prevalence and severity of disabilities and increase the chance that a child with disabilities will graduate with their peers.

   Research has shown that very young children who attend high-quality care and education programs realize important gains in language and in social-emotional and cognitive development. Children who experience these programs are also more likely to graduate from high school, attend college, and be employed as adults. Early care and education is particularly important for children with disabilities. When developmental delays are recognized and addressed at the youngest possible age, many delays can be significantly ameliorated. Queens College economist Clive R. Belfeld estimates that children who receive high-quality care and education before kindergarten are 40 percent to 60 percent less likely to need special education interventions when they reach school age.

   As with older children, most 3- to 5-year-olds with disabilities learn best when they attend preschools alongside their age-mates without disabilities to the greatest extent possible. These settings provide both language and behavioral models that assist in children's development and help all children learn to be productively engaged with diverse peers. However, relatively few children are

able to attend preschool in such integrated settings. Currently, only one in five preschool-aged children with identified disabilities is enrolled in such settings.

Related/Prior Legislation

AB 2042 (Villapudua, 2022) would have required CDSS to establish an anaphylactic policy that sets guidelines and procedures to be followed by child daycare personnel to prevent a child from suffering from anaphylaxis and to be used during a medical emergency by July 1, 2024. This bill was vetoed by the Governor.

SB 217 (Portantino, 2019) would have, as introduced, created the Early Intervention Grant Program to increase inclusive access to early education programs for children with exceptional needs and expand eligibility for transitional kindergarten to include children with exceptional needs turning five-years-old at any time during the school year. SB 217 was amended to include content unrelated to early education, then died in Assembly Health Committee.

AB 1754 (McCarty, 2018) would have required the state to provide all eligible low-income four-year-old children with access to early care and education programs. AB 1754 was held in the Senate Appropriations Committee.

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

According to the Assembly Appropriations Committee on July 12, 2023, CDSS estimates General Fund costs of $173,000 in the first year and $169,000 in years two and three, for one limited-term staff to create the templates and revise related regulations, notices, practices and bulletins.

SUPPORT: (Verified 9/8/23)

Office of the Riverside County Superintendent of Schools (co-source)
Santa Clara County Office of Education (co-source)
California County Superintendents
Santa Clara County School Boards Association

OPPOSITION: (Verified 9/8/23)

None received

ASSEMBLY FLOOR: 77-0, 9/7/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy

Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Essayli, Flora, Grayson

Prepared by: Heather Hopkins / HUMAN S. / (916) 651-1524
9/8/23 14:10:51

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

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

UNFINISHED BUSINESS

Bill No: SB 723
Author: Durazo (D), et al.
Amended: 9/7/23
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 4/26/23
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas
NOES: Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 28-9, 5/22/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Eggman, Glazer, Roth

ASSEMBLY FLOOR: Not available

SUBJECT: Employment: rehiring and retention: displaced workers

SOURCE: California Labor Federation
UNITE HERE Local 11

DIGEST: This bill extends, from December 31, 2024 to December 31, 2025, the sunset date on the existing "right to recall" rights for employees in the hospitality and service industry, and adds to these provisions a presumption that a separation due to a lack of business, reduction in force, or other economic, nondisciplinary reason is due to a reason related to the COVID-19 pandemic, unless the employer establishes otherwise by a preponderance of the evidence.

Assembly Amendments revert to existing law limiting these "right to recall" rights to COVID-19 layoffs instead of any layoffs for other specified reasons as proposed in prior versions of the bill; adds a presumption that a separation due to a lack of business, reduction in force, or other economic, nondisciplinary reason is due to a reason related to the COVID-19 pandemic, as specified; and extends these rights for one additional year.

ANALYSIS:

Existing law:

1) Requires certain hospitality and service industry employers to offer to rehire qualified former employees who were laid off due to the COVID-19 pandemic. Among other things, the "Right to Recall" provisions:

    a) Requires employers to notify covered employees of specified enterprises of job openings for the same or similar positions as the ones they last held.

    b) Covered workers include employees at hotel or private clubs with 50 or more guest rooms, airports, airport service providers and event centers.

    c) Within five business days of establishing a position, an employer shall offer its laid-off employees in writing, either by hand or their last known physical address, any by email and text message (to the extent the employer possesses this information) all job positions that become available, with priority based on length of service, before new employees can be hired.

    d) Qualified laid-off employees must respond to notices within five days.

    e) Prohibits employers from refusing to employ, terminate, reduce in compensation, or otherwise take any adverse action against any laid-off employee for seeking to enforce these rights.

    f) Directs the Division of Labor Standards Enforcement to enforce these provisions and authorizes a laid off employee to file a complaint with DLSE for violations and entitles them to hiring and reinstatement rights, front and back pay, as specified, and the value of benefits the employee would have received under the employer's benefit plan.

g) Subject employers guilty of a violation to specified civil penalties and employees will be entitled to damages of $500 per day of violation and will be awarded damages for each day of violation until cured.

h) These recall rights are effective April 16, 2021 *through December 31, 2024.* (Labor Code §2810.8)

2) Requires, under the Displaced Janitor Opportunity Act, regarding contracts for janitorial or building maintenance services, a successor contractor(s) or subcontractor(s) to retain, for a 60-day transition employment period, employees of the terminated contractor and subcontractor, as specified. If at any time the successor determines that fewer employees are needed, the successor contractor or subcontractor shall retain employees by seniority. (Labor Code §1060-1065)

3) Requires, regarding grocery establishments, when a change in control (such as a sale or transfer) occurs, an incumbent grocery employer to maintain a preferential hiring list of eligible workers identified and hire from that list for a period of 90 days, as specified. If the successor employer determines that it requires fewer workers, the successor grocery employer shall retain eligible grocery workers by seniority, as specified. (Labor Code §2500-2522)

4) Requires, regarding public transit service contracts and contracts for the collection and transportation of solid waste, a bidder to declare as part of the bid (and in exchange for a 10-percent bid preference) whether or not they will retain employees of the prior contractor/subcontractor for a 90-day transition period if awarded the contract. If, at any time, the successor contractor/subcontractor determines that fewer employees are required, the successor must retain employees by seniority, as specified. (Labor Code §1070-1076)

5) Establishes within the Department of Industrial Relations (DIR) and under the direction of the Labor Commissioner, the Division of Labor Standards Enforcement (DLSE) tasked with administering and enforcing labor code provisions concerning wages, hours and working conditions. (Labor Code §56)

This bill:

1) Revises the provisions of the existing COVID-19 Recall Rights for hotels, private clubs, event centers, airport hospitality operations, airport service

providers or other provision of building service to office, retail or commercial buildings to:

a) Extend the December 31, 2024 sunset date to December 31, 2025.

b) Revise the definition of "laid-off employee" to mean any employee who was employed by the employer for 6 months or more and whose most recent separation from active employment by the employer occurred on or after March 4, 2020, and was due to a reason related to the COVID-19 pandemic, as specified.

c) Include a presumption that a separation from employment due to a lack of business, reduction in force, or other economic, nondisciplinary reason is due to a reason related to the COVID-19 pandemic, unless the employer establishes otherwise by a preponderance of the evidence.

Background

The COVID-19 pandemic and the shutdown orders to mitigate the spread of the virus lead to a dramatic loss of jobs and an increase in unemployment beginning in March 2020. Millions of Californians were left unemployed and in critical need of assistance to replace some of the income on which they relied to pay for essentials such as housing and food. By April 2020, the unemployment rate had surpassed previous peaks observed during the Great Recession.

In August 2020, a bill, AB 3216 (Kalra, 2020), was introduced to attempt to address what was happening on the ground to the workers in the hospitality industry. The bill would have required hospitality and airport employers to offer its laid-off employees specified 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. The bill also would have required an incumbent employer, within 15 days after the execution of a transfer document, to provide to the successor employer specified information pertaining to eligible employees and would have required the successor employer to maintain and hire from a preferential hiring list for a specified time period. AB 3216 was vetoed by the Governor.

In 2021, the Legislature approved and the Governor signed SB 93 (Committee on Budget and Fiscal Review, Chapter 16, Statutes of 2021) which provided

recall/rehiring rights to employees working in the hospitality industry – including for hotels, event centers, and airport service and hospitality providers – who were laid-off due to a non-disciplinary reason related to the COVID-19 pandemic, including lack of business, a government shut-down order, or public health directive. The bill did not include the successor employer rehire requirements that AB 3216 would have included. These rehiring rights are set to end on December 31, 2024.

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information and examples of the recall rights in operation and similar efforts through ordinances.]

Comments

Need for this bill? According to the author, "Though the COVID-19 pandemic has abated somewhat, employers layoff workers for many non-disciplinary reasons including any slow-down in the tourism industry, economic downturns, another public health emergency, or even repairs. Mergers of companies may also result in temporary layoffs as the new owner assesses the business. In addition, the hospitality industry is particularly sensitive to economic downturns since business and leisure travel is often the first expense cut. If the existing rehiring rights expire in 2024, many of these hospitality workers will be left again with uncertainty if they are laid off through no fault of their own. Making these provisions permanent prepares the industry for any future disruptions and lays the foundation for a swift recovery."

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more information on prior and related legislation pending this year.]

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

According to the Assembly Appropriations Committee:

1) The Division of Labor Standards Enforcement (DLSE) notes minor and absorbable costs to continue slightly expanded enforcement of rehiring and retention rights. However, the Department of Finance (DOF) estimates costs of $1 million to $2 million annually (Labor Enforcement Compliance Fund).

The budget trailer bill that first established these rights for specified workers displaced due to the COVID-19 pandemic appropriated $6 million (Labor and Workforce Development Fund), available for over four years, to the Labor Commissioner for related staffing resources. This bill expands indefinitely rehiring and retention rights to specified workers laid off for any economic, non-disciplinary reason, so it is unclear why costs would not continue to average closer to $1.5 million annually. Additionally, the Department of Finance's analysis of this bill "notes that DLSE is not able to absorb any additional costs for enforcement because of an existing case backlog."

2) Annual cost pressures (General Fund (GF) or Trial Court Trust Fund) of an unknown amount, potentially up to $150,000, to the courts in additional workload. In addition to administrative enforcement through DLSE, this bill extends indefinitely the right to civil enforcement through the courts. It is unclear how many actions may be filed statewide, but the estimated workload cost of one hour of court time is $1,000. Although courts are not funded on the basis of workload, increased pressure on staff and the TCTF may create a need for increased court funding from the GF to perform existing duties. The 2023-24 state budget agreement includes $105.1 million in ongoing GF revenue to continue backfilling the TCTF for expected revenue declines.

SUPPORT: (Verified 9/13/23)

California Labor Federation, AFL-CIO (co-source)
UNITE HERE Local 11 (co-source)
ACCE Action
California Catholic Conference
California Employment Lawyers Association
California Immigrant Policy Center
Clergy and Laity United for Economic Justice
Coalition for Economic Survival
County of Los Angeles
Courage California
Ground Game LA
Housing Rights Committee of San Francisco
Los Angeles County
People Organized for Westside Renewal
Santa Clara County Wage Theft Coalition
Strategic Actions for a Just Economy
Sunrise Movement – Los Angeles
Thai Community Development Center

OPPOSITION: (Verified 9/13/23)

Brea Chamber of Commerce
California Apartment Association
California Attractions and Parks Association
California Business Properties Association
California Chamber of Commerce
California State Council of the Society for Human Resource Management
California Travel Association
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Coalition of California Chambers – Orange County
Corona Chamber of Commerce
Danville Area Chamber of Commerce
Folsom Chamber of Commerce
Fontana Chamber of Commerce
Fresno Chamber of Commerce
Gilroy Chamber of Commerce
Glendora Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Hollywood Chamber of Commerce
La Canada Flintridge Chamber of Commerce
Lodi District Chamber of Commerce
National Federation of Independent Business
Oceanside Chamber of Commerce
Official Police Garage Association of Los Angeles
Orange County Business Council
Palos Verdes Peninsula Chamber of Commerce
Paso Robles Chamber of Commerce
Roseville Area Chamber of Commerce
San Juan Capistrano Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santee Chamber of Commerce
Simi Valley Chamber of Commerce
South County Chambers of Commerce
Templeton Chamber of Commerce
Torrance Area Chamber of Commerce
Tulare Chamber of Commerce
Vacaville Chamber of Commerce

Vista Chamber of Commerce
Westside Council of Chambers of Commerce
Yorba Linda Chamber of Commerce

ARGUMENTS IN SUPPORT: According to the sponsors, "Nearly 40 percent of all California jobs lost during the pandemic were in the hospitality industry. Millions of workers – low-wage, immigrant, female – were left with no source of income or security. After years of working their way up at one employer, workers feared they would have to start again at the bottom rung, losing years of seniority, pay raises, and paid time off. Mass layoffs gave employers the opportunity to rehire newer, younger workers into jobs that older workers previously held."

Proponents argue that, "Rehire rights also benefit employers and the economy. Evidence from past recessions shows that keeping workers connected to their jobs during downturns speeds economic recovery. This was the logic behind the federal Paycheck Protection Program that was intended to help businesses keep their workers on payroll until they could be recalled to work. Employers avoid the costly and time-intensive hiring and training process and can quickly return to full productivity. Workers avoid long-term unemployment and wage loss speeding recovery after economic shocks."

ARGUMENTS IN OPPOSITION: A coalition of employer organizations, argue that this bill undoes legislative compromise that became SB 93 (2021). They write, "In the beginning of the COVID-19 pandemic, AB 3216 (Kalra) (2020) proposed a right to recall for hospitality workers during any state of emergency. It was vetoed due to the burden it would have placed on struggling industries and its failure to narrowly tailor its provisions to COVID-19. As part of the budget process the following year, negotiations took place between the Legislature, administration, and business community regarding a narrower version of a right to recall. Although it still faced opposition as being unnecessary and overly burdensome, the result, SB 93, was more limited in time and scope and specifically tied to the unique circumstances presented by the COVID-19 pandemic."

Additionally, they argue that this bill seeks to, "micromanage the rehire process for affected businesses," by, among other things:

- Slowing down the hiring process by forcing employers to repeatedly offer newly available positions to qualified employees, no matter how many times they have turned offers down, failed to respond, or explicitly declined offers.
- Essentially eliminates the use of severance agreements since employers subject to such a retention right would have any reason to offer severance.
- Forces employers to hire based on seniority, not skill.

- Exposes employers to administrative costs as any good faith error results in penalties.

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
9/13/23 20:47:27

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

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

UNFINISHED BUSINESS

Bill No: SB 747
Author: Caballero (D), et al.
Amended: 9/8/23
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 8-0, 4/12/23
AYES: Caballero, Seyarto, Blakespear, Dahle, Durazo, Glazer, Skinner, Wiener

SENATE HOUSING COMMITTEE: 11-0, 4/24/23
AYES: Wiener, Ochoa Bogh, Blakespear, Caballero, Cortese, McGuire, Padilla, Seyarto, Skinner, Umberg, Wahab

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 38-0, 5/31/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wiener, Wilk
NO VOTE RECORDED: Gonzalez, Wahab

ASSEMBLY FLOOR: Not available

SUBJECT: Land use: surplus land

SOURCE: Author

DIGEST: This bill makes various changes to the Surplus Land Act (SLA) regarding the disposal process, exemptions, and penalties for violations.

Assembly Amendments (1) delete provisions related to Economic Opportunity Law, various provisions related to transit agencies, and mixed use developments; (2) modify the definition of disposal, make various changes to exemptions; and (3)

make other technical and clarifying changes and include chaptering amendments with AB 480 (Ting).

ANALYSIS:

Existing law:

1) Establishes procedures for the disposal of publicly-owned land that is surplus to the needs of local agencies, under SLA.

2) Requires local officials that want to dispose of public property to declare that the land is no longer needed for the agency's use in a public meeting and declare the land either "surplus land" or "exempt surplus land."

3) Requires local agencies to follow the procedures laid out in the SLA before surplus land can be sold, including, but not limited, to:

    a) Send a written notice of availability to various public agencies and nonprofit groups, referred to as "housing sponsors," notifying them that land is available for the following purposes:

        i) Low- and moderate-income housing;
        ii) Park and recreation, and open space;
        iii) School facilities; or
        iv) Infill opportunity zones or transit village plans.

4) Negotiates in good faith for 90 days with housing sponsors that respond.

5) Allows the local agency to dispose of the property on the private market if agreement is not reached with a housing sponsor.

6) Requires that, if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15% of the units must be sold or rented at an affordable cost to lower income households.

7) Imposes penalties of 30% of the sale price of the land for a first violation and 50% of the sale price for any subsequent violation for selling land in violation of the SLA. Establishes an enforcement process, which provides, among other things, that a local agency cannot be liable for a penalty if it is not notified by HCD that it is in violation of the act.

8) Designates certain types of land as "exempt surplus land" and provides that the entirety of the SLA does not apply to exempt surplus land.

This bill:

1) Specifies additional examples of uses of property for an "agency's use" under the SLA to include utility sites, port property, broadband and wireless sites, and waste disposal sites.

2) Defines "dispose" to mean either of the following:

   a) The sale of the surplus land.

   b) The entering of a lease for surplus land, which is for a term longer than 15 years, inclusive of any extension or renewal options included in the terms of the initial lease, entered into on or after January 1, 2024.

3) Provides that "dispose" shall not mean either of the following:

   a) The entering of a lease for surplus land, which is for a term of 15 years or less, inclusive of any extension or renewal options included in the terms of the initial lease.

   b) The entering of a lease for surplus land on which no development or demolition will occur, regardless of the term of the lease.

4) Revises the existing exemption in the SLA for small parcels to exempt all parcels of under half an acre, regardless of whether they are transferred to an adjacent owner.

5) Revises the existing exemption in the SLA for valid legal restrictions that make housing prohibited on the site as follows:

   a) Requires documentary evidence, which includes, but is not limited to specified documents, that supports the valid legal restriction.

   b) Provides a non-exhaustive list of examples of valid legal restrictions, as follows:

      i) Existing constraints under ownership rights or contractual rights or obligations that prevent the use of the property for housing, if the rights or obligations were agreed to prior to September 30, 2019.
      ii) Conservation or other easements or encumbrances that prevent housing development.
      iii) Existing leases, or other contractual obligations or restrictions, if the terms were agreed to prior to September 30, 2019.

iv) Restrictions imposed by the source of funding that a local agency used to purchase a property, provided that both of the following requirements are met:

(1) The restrictions limit the use of those funds to purposes other than housing.

(2) The proposed disposal of surplus land meets a use consistent with that purpose.

c) Provides that valid legal restrictions do not include either of the following:

i) An existing nonresidential land use designation on the surplus land.
ii) Covenants, restrictions, or other conditions on the property rendered void and unenforceable by any other law, as specified.

d) Provides that feasible methods to mitigate or avoid a valid legal restriction on the site do not include a requirement that the local agency acquire additional property rights or property interests belonging to third parties.

6) Establishes as categories of exempt surplus land:

a) Land that is owned by a California public-use airport on which residential use is prohibited pursuant to Federal Aviation Administration regulations.

b) Land that is transferred to a community land trust.

c) Land disposed for commercial or other revenue generating activities for transit agencies, as specified, if the agency meets all of the following conditions:

i) The agency has an adopted land use plan or policy that designates at least 50 percent of the gross acreage covered by the adopted land use plan or policy for residential purposes. The adopted land use plan or policy shall also require the development of at least 300 residential units, or at least 10 residential units per gross acre, averaged across all land covered by the land use plan or policy, whichever is greater.
ii) At least 25% of the residential units developed are made available to lower income households at an affordable sales price or affordable rent.
iii) Land disposed of for residential purposes is put out to competitive bid.
iv) Prior to entering into an agreement to dispose of a parcel for non-residential development the agency, since January 1, 2020, must have

entered into an agreement to dispose of a minimum of 25 percent of the land designated for affordable housing.

d) Land that is no larger than two acres, identified in a local agency transportation plan, as specified, abuts a highway, and is zoned for retail commercial use, as specified.

7) Requires HCD to link to all notices of availability and list all entities that have notified the department of their interest in surplus land for the purpose of developing low- and moderate-income housing.

8) Clarifies that participating in negotiations does not include:

a) Issuing requests for proposals or requests for qualifications to affordable housing sponsors under specified exemptions;

b) Negotiating a lease, exclusive negotiating agreement, or option agreement for specified exemptions for the disposal of affordable housing; or

c) Negotiating with a developer to determine if the local agency can satisfy specified disposal exemption requirements.

9) Modifies the penalties for land disposed of in violation of the SLA, as follows:

a) Imposes the same 30% and 50% penalties as current statute, but on a base of either:

i) In the case of a sale, the greater of the final sale price of the land or the fair market value of the surplus land at the time of sale, as determined by an independent appraisal.
ii) In the case of a lease, the discounted net present value of the fair market value of the lease as of the date the lease was entered into, as determined by an independent appraisal of the lease of surplus land in violation of this article.

b) Provides that the SLA penalties do not apply to violations that do not impact the availability and priority of land for, or construction of, affordable housing, such as clerical errors.

10) Repeals HCD's exemption from the Administrative Procedures Act when adopting guidelines to implement the SLA.

11) Makes technical and clarifying changes to:

a) Consolidate the provisions of the SLA that protect certain aspects of local government authority to set conditions for disposition in a single section;

b) Clarify the affordability requirements for housing developed on tribal lands;

c) Make other technical changes; and

d) Include chaptering amendments with AB 480 (Ting) and provide that the bill is contingent on the enactment of AB 480.

Background

Surplus Land Act. Public agencies are major landlords in some communities, owning significant pieces of real estate. When properties become surplus to their needs, public officials want to sell the land to recoup their investments. The SLA spells out the steps local agencies must follow when they want to dispose of land. It requires local governments to give a "first right of refusal" to other governments and nonprofit housing developers, and to negotiate in good faith with them to try to come to agreement.

Before local officials can dispose of property, they must declare that the land is no longer needed for the agency's use in a public meeting and declare the land either "surplus land" or "exempt surplus land." Agency use includes land that is being used, or is planned to be used pursuant to a written plan the local agency's governing board adopts, or is disposed of to support agency work or operations.

The SLA designates certain types of land as "exempt surplus land," and specifically provides that the entire law does not apply to exempt surplus land. All other surplus land must follow the procedures laid out in the SLA before a local agency can sell it. Before agencies can enter into negotiations to sell surplus land, they must send a written notice of availability to various public agencies and nonprofit groups, referred to as "housing sponsors," notifying them that land is available for the following purposes:

- Low- and moderate-income housing;
- Park and recreation, and open space;
- School facilities; or
- Infill opportunity zones or transit village plans.

Housing sponsors can notify the Department of Housing and Community Development (HCD) that they are interested in acquiring surplus land to develop affordable housing. HCD maintains a list of notices of availability on its website.

If another agency or housing sponsor wants to use the surplus land for one of these purposes, it must tell the disposing agency within 60 days, and if multiple entities want to purchase the land, the housing sponsor that proposes to provide the greatest level of affordable housing gets priority. The agency and the housing sponsor then have an additional 90 days to negotiate a mutually satisfactory price and terms in good faith. If they cannot agree, the agency that owns the surplus land can sell the land on the private market. The SLA says that nothing in its provisions prevents a local agency from disposing of the land at or below fair market value, where not in conflict with other law.

AB 1486 (Ting, Chapter 664, Statutes of 2019). In 2019, the Legislature substantially revised the SLA to increase the emphasis on affordable housing and address concerns that some local agencies were bypassing the SLA's requirements (AB 1486, Ting). Among other changes, AB 1486 broadened the definition of surplus land and required land to be designated as surplus prior to the local agency selling the land, which ensures that local agencies must comply with the SLA. AB 1486 prohibited local agencies from counting the sale of land for economic development purposes as being "for the agency's use." This means local agencies must open their properties up to affordable housing developers first, even if they have different purposes in mind for the property. Additionally, AB 1486 instituted a requirement that if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15% of the units must be sold or rented at an affordable cost to lower income households.

AB 1486 also provided certain projects could use the previous version of the SLA before AB 1486 amended it, if the local agency, as of September 30, 2019, entered into an exclusive negotiating, or legally binding, agreement to dispose of property, provided the local agency completed the disposition by December 31, 2022. AB 1486 included a similar provision for land held in a Community Redevelopment Property Trust Fund, or designated in a long-range property management plan, for sale or retained for future development, so long as the local agency entered into the exclusive negotiating, or legally binding, agreement by December 31, 2020, and completes the disposition by December 31, 2022.

Several housing organizations want the Legislature to modify various provisions of the SLA.

Comments

1) *Purpose of the bill*. According to the author, "The SLA requires a local agency seeking to dispose of real property as "surplus" to first make it available for affordable housing. In 2019, AB 1486, imposed requirements under the SLA that included giving the Department of Housing and Community Development (HCD) an oversight role and the ability to impose fines when a local government is found to have violated the SLA. Unfortunately, local governments across the state have reported challenges with the Surplus Land Act, which has imposed bureaucratic requirements on properties not suitable for housing and limited opportunities for economic development, particularly in smaller jurisdictions. These bureaucratic hurdles have hampered their ability to effectively conduct activities and fulfill their missions without experiencing significant delays, or lobbying HCD or the Legislature to obtain individual exemptions. SB 747 makes a number of changes to the Surplus Land Act, which make numerous improvements to the Surplus Lands Act, in ways that continue to advance the development of affordable housing, while avoiding needless delays and uncertainty for local public agencies. Notably, SB 747: exempts parcels under half an acre from the SLA, thereby opening them up to economic development; streamlines the leasing process by clarifying that the SLA does not apply to leases of less than 15 years; and ensures that property purchased with funds that are restricted in their use, such as federal funds or mitigation fees, does not have to go through the SLA."

2) *Get it in writing.* SB 747 adds a definition of dispose that specifies what types of transactions are subject to the SLA. It then goes on to specify two types of transactions that are definitively not disposals in order to provide further certainty to local governments that HCD will not subject those transactions to the SLA. However, this is not an exhaustive list of types of transactions that are excluded from the SLA—merely an example of those that must clearly be considered outside the scope of the law. For example, other transactions that would not fall under the SLA could include property transactions that are not sales or leases. Similarly, SB 747 includes additional activities that should not be considered "participating in negotiations," as a matter of clarification, but are not an exhaustive list of actions that do not qualify as a negotiation. Finally, the bill also lists out several examples of presumptive valid legal restrictions, without limiting other legal restrictions that local governments might be subject to.

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

According to the Assembly Appropriations Committee:

- HCD estimates ongoing General Fund costs of $660,000 annually for three staff positions to establish uniform standards to process and publish local agencies' notices of "exempt surplus land" determinations, and update policies and procedures related to SLA enforcement, and to adopt, amend, or repeal guidelines to implement the SLA pursuant to the APA.

- Costs to local agencies of an unknown amount to revise procedures for identifying and disposing of surplus lands. These costs are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates, should a local agency submit a claim.

SUPPORT: (Verified 9/13/23)

Association of California Healthcare Districts
AV EDGE
Calaveras County Economic & Community Development
California Association for Local Economic Development
California Association of Sanitation Agencies
California Business Properties Association
California Special Districts Association
City of Bakersfield
City of Bell Gardens
City of Bellflower
City of Beverly Hills
City of Brentwood
City of Camarillo
City of Elk Grove
City of Fowler
City of Fullerton
City of Indian Wells
City of Inglewood
City of Kerman
City of Montclair
City of Murrieta
City of Ontario
City of Palmdale
City of Paramount
City of Salinas

City of San Marcos
City of Suisun City
City of Tustin
City of Vista
City of West Sacramento
Irvine Ranch Water District
Kosmont Companies
San Bernardino County
Solano Economic Development Corporation
Tulare Chamber of Commerce

OPPOSITION: (Verified 9/13/23)

None received

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
9/13/23 20:45:15

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

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

UNFINISHED BUSINESS

Bill No: SB 751
Author: Padilla (D)
Amended: 9/1/23
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-2, 5/3/23
AYES: Caballero, Durazo, Glazer, Skinner, Wiener
NOES: Seyarto, Dahle
NO VOTE RECORDED: Blakespear

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 30-9, 5/30/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Glazer, Grove, Jones, Nguyen, Niello, Seyarto, Wilk
NO VOTE RECORDED: Ochoa Bogh

ASSEMBLY FLOOR: Not available

SUBJECT: Franchise agreements: solid waste handling services: labor dispute

SOURCE: Author

DIGEST: This bill prohibits franchise agreements entered into or substantially amended by a city or county on or after January 1, 2024, from containing a force majeure provision that excuses the service provider from complying with the agreement in the event of a work stoppage associated with a labor dispute, and requires agreements to include certain provisions in the event of a labor dispute.

Assembly Amendments restrict the bill's provisions to new or substantially amended franchise agreements, apply the bill's provisions to charter cities, and make technical and clarifying changes.

ANALYSIS:

Existing law:

1) Allows a city or county to "make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws," known as the police power. Gives local governments their authority to regulate behaviors, business operations, and land uses. Local agencies also use this police power to abate nuisances and protect public health, safety, and welfare. Allows cities to exercise their police power within their jurisdictions, where not in conflict with state law, and allows counties to exercise this power in unincorporated areas.

2) Allows cities that adopt charters to control their own "municipal affairs." Provides that, in all other matters, charter cities must follow the general, statewide laws.

3) Requires local agencies to provide solid waste handling services, or contract with another local agency or solid waste enterprise. Provides that certain decisions regarding solid waste handling to be local agencies' responsibility.

This bill:

1) Provides that, to promote public health, safety, and well-being, no franchise contract, license, or permit for solid waste handling services that a local agency enters into or substantially amends on or after January 1, 2024, can contain a force majeure provision that excuses the service provider from complying with that contract, license or permit in the event of a work stoppage associated with a labor dispute.

2) Requires the following provisions be included in any franchise contract, license, or permit for solid waste handling services entered into or substantially amended by a local agency on or after January 1, 2024, and must apply in the event of service being disrupted by a work stoppage associated with a labor dispute:

    a) A process by which the franchisee shall provide advance or concurrent notice of service being disrupted.

    b) A process that allows a customer to file a service complaint with the franchisee and a timeframe within which the franchisee shall respond to complaints.

c) A process for customers to request and receive refunds or credits for services not received.

d) A remedy that allows the local agency to take administrative action to enforce the franchisee's failure to comply with the franchise contract, license, or permit for solid waste handling services.

3) Defines "substantially amended" to mean a mutually agreed upon change to a majority of the material terms of a franchise agreement, license, or permit for solid waste handling services.

4) Includes findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Background

Franchise agreements. Most jurisdictions in the state operate with some form of "franchise," or contract, that limits solid waste hauling within the jurisdiction to one or more specified companies. Under these agreements, the local agency charges the franchisee for the benefit of operating within the public right-of-way. The franchisee then charges customers for providing waste hauling services. Jurisdictions have the authority to enter into franchises with waste haulers, with or without competitive bidding. Exclusive franchises authorize a single hauler to operate within a jurisdiction. Non-exclusive franchises allow for more than one hauler, but establish specific requirements for hauling within the jurisdiction. Some communities in California do not have franchise agreements, which allows solid waste businesses to compete within the jurisdiction for service contracts with individual waste generators.

Some franchise agreements include "force majeure" provisions, which free the parties to the agreement from performing their respective duties if extraordinary events directly prevent the parties from doing so. Such an extraordinary event is often referred to as an "act of god," but can include both natural and human-made events, including fires, floods, storms, and labor disputes.

City of Chula Vista. Chula Vista is a charter city, and San Diego County's second largest city, with just over 275,000 residents. In 2014, Chula Vista renewed their franchise agreement with Republic Services, one of the nation's largest waste hauling companies with over 39,000 employees nationwide, to serve over 50,000 customers in the city. Their agreement included a force majeure provision that shielded both parties from fulfilling their obligations in certain extraordinary

events, including natural events that cannot be anticipated, sabotage, war, riots, and strikes or work stoppages.

In December 2021, members of Teamsters Local 542 employed by Republic Services stopped working to protest stalled contract negotiations. During the month-long work stoppage, Republic Services halted some waste pick-up because the franchise agreement included a force majeure provision that shielded the company of liability for not picking up waste during uncontrollable events, including a work stoppage. While Republic Services picked up some waste and allowed customers to drop off waste at their landfill free of charge, the City also used its own staff and contracted with nonprofits to make up for lost or reduced services. In June 2022, the City settled with Republic Services. As part of the settlement, Republic Services reimbursed some City costs, provided the City with additional services, and provided a partial credit to customers.

Comments

1) *Purpose of the bill.* According to the author, "In 2022, I had a front row seat to failure of business resulting in a public health emergency. Republic Services failed to reach a labor agreement with Teamsters Local 542 that triggered a strike. In the franchise agreement with the City of Chula Vista, Republic Services had placed a provision that shielded the company from liability in the face of a strike or work stoppage. As workers called for better wages and the strike continued, Republic Services halted trash pick-up leaving residents to deal with the consequences. The clause shielded the company from liability as the trash piled up throughout the city. The vendor stalled for time, prolonging the strike, and causing a public health crisis. What happened in Chula Vista is a perfect example of companies leveraging loopholes in their exclusive agreements with cities to take advantage of residents and workers alike. Sanitation vendors have turned an Act of God provision into a hammer against residents and workers. We shouldn't allow vendors to use the public as pawns in their labor fights."

2) *What's the problem?* Chula Vista voluntarily entered into a franchise agreement with Republic Services that contained a commonly used provision to shield both parties from events not entirely in their control. Republic Services certainly has more control over work stoppages than "acts of god," but this provision is by no means unique to Chula Vista, or even for waste hauling franchise agreements. The City could work with Republic Services to amend its existing contract to remove labor stoppages from the existing force majeure provision without legislation, or add additional protections for the city and

customers. The City was also able to work with the company to provide the City and its customers with some financial relief from the work stoppage. Why is legislation needed to determine which provisions can be included in franchise agreements that both parties voluntarily enter into, and have the ability to amend? According to the author, many local agencies may not be aware that a company could use such a provision to shield them from liability in a labor dispute they were actively negotiating, and public outcry from waste piling up could influence negotiations against the workers and the City. On the other hand, waste hauling providers say that this bill creates an uneven playing field for them, does not provide enough flexibility, and could result in increased costs for local agencies as the balance in negotiation changes, all of which could lead to higher costs for customers. Does this bill help ensure that events like those in Chula Vista do not repeat in other parts of the state without unintended consequences?

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

According to Assembly Appropriations Committee:

- By imposing new duties on local governments with respect to franchise contracts, licenses, or permits for solid waste handling services, this bill imposes a state-mandated local program. While the cost to remove labor disputes from the "force majeure" sections of contracts – as required in 1, above – will likely be minor, the requirements under 2, above, could increase the staff time, workload, and costs associated with drafting and finalizing franchise contracts, licenses, or permits. With 540 cities and counties in the state, it seems likely that the total cost of implementing this provision will exceed $150,000.

- To the extent the Commission on State Mandates determines this bill establishes a reimbursable mandated local program, this bill would result in unknown General Fund costs, likely in excess of $150,000, for the state to provide such reimbursement.

SUPPORT: (Verified 9/13/23)

California Teamsters Public Affairs Council
City of Camarillo
City of Chula Vista
Imperial Valley Equity and Justice Coalition

OPPOSITION: (Verified 9/13/23)

Athens Services
California Waste & Recycling Association
California Waste Haulers Council
Resource Recovery Coalition of California
Waste Connections, Inc.
Waste Management & Affiliated Entities

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
9/13/23 21:07:16

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

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

UNFINISHED BUSINESS

Bill No: SB 770
Author: Wiener (D) and McGuire (D), et al.
Amended: 9/8/23
Vote: 21

SENATE HEALTH COMMITTEE: 7-2, 4/19/23
AYES: Eggman, Gonzalez, Limón, Menjivar, Roth, Wahab, Wiener
NOES: Nguyen, Dahle
NO VOTE RECORDED: Glazer, Hurtado, Rubio

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 30-9, 5/30/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Glazer

ASSEMBLY FLOOR: Not available

SUBJECT: Health care: unified health care financing

SOURCE: Healthy California Now

DIGEST: This bill directs the Secretary of the California Health and Human Services Agency (HHS) to research, develop, and pursue waiver discussions with the federal government with the objective of a unified health care financing system that incorporates specific features, including a comprehensive package of medical, behavioral health, pharmaceutical, dental, and vision benefits, without cost sharing

for essential services and treatments. This bill requires the Secretary to engage stakeholders including consumers, patients, health care professionals, labor unions, government agencies, and philanthropic organizations in developing the waiver framework. This bill requires the Secretary to provide an interim report by January 1, 2025, detailing the agency's preliminary analysis and input from stakeholders, and to propose statutory language authorizing the development and submission of federal waiver applications. This bill requires the Secretary to complete the waiver framework by June 1, 2025, and hold a 45-day public comment period and produce a report on the finalized waiver framework by November 1, 2025.

Assembly Amendments delete the requirement to create a Waiver Development Workgroup and instead use a stakeholder process to further develop the waiver framework, establish dates for completing the waiver framework and make other minor, clarifying changes.

ANALYSIS:

Existing federal law:

1) Establishes the Medicaid program to enable each state to furnish medical assistance on behalf of individuals whose income and resources are insufficient to meet the costs of necessary medical services. Requires states to submit a state plan for medical assistance describing the coverage of mandatory and optional populations and benefits. [42 USC §1396 et seq.]

2) Establishes the State Children's Health Insurance Program (CHIP) to allow states to provide free or low-cost health coverage to low-income children and pregnant women whose income is too high for Medicaid coverage. Requires states to submit a state child health plan in order to receive payment for health coverage under CHIP. [42 USC §1397aa, et seq.]

3) Authorizes the Secretary of HHS to waive Medicaid state plan requirements (with the exception of citizenship and requirements of another agency) to the extent necessary to carry out a demonstration or experimental project furthering the goals of the program. [42 USC §1315]

4) Establishes state health insurance exchanges through the Affordable Care Act (ACA) to sell qualified health plans (QHPs) with standard benefit designs to eligible individuals with or without premium assistance and cost sharing reductions. Limits eligibility for premium assistance and cost-sharing reductions to individuals who earn between 100-400%FPL or 100-250% FPL

respectively and who do not have minimum essential coverage, are lawfully present and are not incarcerated. [42 USC §18031 et seq.; 26 CFR §1.36B-2.]

5) Authorizes waivers for state innovation under which states can seek federal approval to waive major provisions of the ACA, including the requirement for Exchanges, QHPs, premium tax credits and cost-sharing reductions, the individual mandate and the employer responsibility requirement, provided federal requirements for comprehensive benefits, affordability, and comparable coverage are met and the state proposal does not increase the federal deficit. [42 USC §18052]

6) Establishes, pursuant to federal law, the Medicare program, which provides coverage for seniors and certain persons with disabilities. Authorizes the federal Secretary of HHS, to develop and engage in experiments and demonstration projects for specified purposes, either directly or through grants to public or private agencies, institutions, and organizations or contracts with public or private agencies, institutions, and organizations. [42 USC §1395 et seq.; §1395b-1]

7) Creates within the Centers for Medicare and Medicaid Services (CMS) a Center for Medicare and Medicaid Innovation (CMMI), the purpose of which is to test innovative payment and service delivery models to reduce program expenditures under Medicare and Medicaid while preserving or enhancing the quality of care furnished to individuals under those programs. [42 USC §1315a]

8) Penalizes employers with 50 or more full time or full-time equivalent employees who do not offer minimum essential coverage to their employees. [26 USC §4980H]

Existing state law:

1) Establishes the Medi-Cal program, administered by DHCS, under which low-income individuals are eligible for medical coverage through Medicaid, CHIP and state-only programs. Medi-Cal provides coverage to with incomes up to 138% of the federal poverty level (FPL) and to children with incomes up to 266% FPL. [WIC §14000 et seq., §14005.26, 14005.4, 14005.40, 14005.64]

2) Establishes the California Health Benefit Exchange, known as Covered California, which permits individual to purchase QHPs with standard benefit designs, with or without premium assistance and cost-sharing reductions. [GOV §100500 et seq.]

3) Establishes the Health Care Affordability Reserve Fund, which gives the state the option to reduce the cost sharing for Covered California enrollees with incomes up to 400% FPL. [GOV §100520.5]

4) Established the Healthy California for All Commission as an independent body to develop a plan that includes options for advancing progress toward achieving a health care delivery system in California that provides coverage and access through a unified financing system, including, but not limited to, a single-payer financing system, for all Californians. Required the Commission to submit a report to the Legislature and Governor by February 1, 2021, that that includes options for key design considerations for a unified financing system, including, but not limited to, a single-payer financing system. [HSC §1002, repealed on Jan. 1, 2022 by HSC §1005]

5) Requires all meetings to be conducted in the open of multimember state bodies that are created by statute. [GOV §11120, 11121]

This bill:

1) Requires the Secretary of HHS to research, develop, and pursue waiver discussions with the federal government with the objective of a health care system that would incorporate the following features and objectives:

   a) A comprehensive package of medical, behavioral health, pharmaceutical, dental, and vision benefits, which includes primary, preventive and wellness care services;

   b) A package of long-term care supports and services, including measures to support health and well-being while Californians age;

   c) Services that will not vary by age, employment status, disability status, income, immigration status, or other characteristics;

   d) Identification of disparities among Medicare, Medi-Cal, employer-sponsored insurance, and individual market coverage, with the goal of eliminating these disparities;

   e) The elimination of the adverse impacts within the health care system of attempts to avoid covering the sick or the benefits patients need;

   f) The absence of cost sharing for essential services and treatments covered under the program;

g) The establishment of sufficient reserves to guarantee solvency during times of public health emergencies and economic disruptions;

h) A program to implement a just transition for members of the health industry workforce whose jobs may be disrupted;

i) Assurances that no individual will pay more than a specified percentage of their income on a progressive sliding scale for the cost of financing the health system;

j) Unified financing that delivers health care more effectively, efficiently, and equitably;

k) Cost-effectiveness by systemwide pooled purchasing to negotiate rates with providers;

l) Freedom for patients to choose providers and for primary care providers to choose practice models;

m) Greater investments in public health, primary care, and health equity efforts to address the social determinants of health through an improved mix of health care and human services;

n) Improvements in cost, quality, and health care system oversight and integration built on the accomplishments of the Office of Healthcare Affordability and other current initiatives, including the Data Exchange Framework and California Advancing and Innovating Medi-Cal;

o) A ratesetting process that could use Medicare rates as the starting point for the development of final rates designed to avoid disruptions in the health care system and expand the availability of high quality vital services by sustaining a stable, experienced, and equitably compensated workforce;

p) Promotion of a workforce addresses geographies and specialties with the greatest shortages and is diverse and able to provide culturally and linguistically competent care to all Californians regardless of race, nationality, ethnicity, sexual identity, and socioeconomic status;

q) Prohibition on the kinds of risk-bearing contractual arrangements that could incentivize providers to withhold needed care;

r) Specific details regarding how care would be coordinated and organized; and,

s) Methods of payment, delivery, and oversight implemented under the unified health care financing system that will continue to allow California the ability to receive the full benefit of federal expenditures and tax credits that currently underwrite the full scope of health services.

2) Requires the Secretary to engage stakeholders to provide inputs on topics related to discussions with the federal government and key system design issues identified by the Healthy California for All Commission for further analysis. Stakeholder engagement shall include representatives of consumers, patients, and community-based health care service providers, community organizations, health care professionals, labor unions, employers, and health policy experts, as well as representatives of government agencies and philanthropic organizations focused on health care.

3) Requires the Secretary to provide an interim report by January 1, 2025, detailing the agency's preliminary analysis and input from stakeholders, and to propose statutory language authorizing the development and submission of federal waiver applications. Requires the Secretary to complete the waiver framework by June 1, 2025, and hold a 45-day public comment period and produce a report on the finalized waiver framework to establish a unified financing system by November 1, 2025, consistent with the outcomes of the agencies discussions with the federal government.

4) Makes a number of legislative findings regarding the final report of the Healthy California for All Commission and endorsing the Commission's recommendations for a health care system with unified financing that guarantees all Californians the benefit of a standard, comprehensive package of health care services and supports the HHS's discussions with the federal government regarding the terms of a potential waiver to effectuate the creation of a health care system consistent with this part.

Comments

1) *Author's statement.* According to the author, this bill takes tangible steps on a concrete timeline toward achieving universal, more affordable healthcare in California by requiring the Secretary of HHS to: pursue waiver discussions with the CMS to facilitate the creation of a unified healthcare financing system; and to submit a complete set of recommendations regarding the elements to be included in a formal waiver application, as specified, by no later than June 1, 2024. Once the Secretary has gathered the information necessary for the Legislature to make informed decisions, they will be responsible to bring them to the Legislature for action. California has the ability to establish a system of

guaranteed healthcare for all and provide better care that costs less. This bill makes this potential real by establishing a specific statutory pathway for pursuit of this goal.

2) *Healthy California for All Commission.* SB 104 (Committee on Budget and Fiscal Review, Chapter 67, Statutes of 2019) established the Healthy California for All Commission, which was charged with developing a plan that includes options for advancing progress toward achieving a health care delivery system in California that provides coverage and access through a unified financing system, including, but not limited to, a single-payer financing system, for all Californians. SB 104 required the Commission to submit a report to the Legislature and the Governor with, among other things, an analysis of California's existing health care delivery system and options to transition to a unified financing system, including a single-payer financing system. SB 104 also required the commission to submit a report to the Legislature and the Governor that includes options for key design considerations for a unified financing system, including a single-payer financing system.

   Last April, the Commission issued its final report and endorsed a unified financing system with the following characteristics:

   a) All Californians will be entitled to receive a standard package of health care services;

   b) Entitlement will not vary by age, employment status, disability status, income, immigration status, or other characteristics; and,

   c) Distinctions among Medicare, Medi-Cal, employer-sponsored insurance, and individual market coverage will be eliminated within the system of unified financing.

   The report pointed to the variety of methods that other countries use to achieve unified financing, some, such as Canada and the United Kingdom, which land squarely within the definition of single payer, while others, such as Germany or the Netherlands, which rely on health insurance that is highly regulated. The financial analysis done in connection with the report found that without a shift to unified financing, health care spending in California is estimated to increase by $158 billion over nine years, which is a 30% increase over base line spending. The total cost of a unified financing system would depend on a number of key design decisions including eligibility and enrollment, covered benefits and services, patient cost-sharing, provider payment, purchasing arrangements and role for intermediaries, care coordination, and cost

containment measures. In some areas, such as the decision to use risk-based capitation (e.g. managed care plan) versus a direct payment model, no consensus was reached by the Commission. A number of scenarios were run using both a direct payment to providers model and a health plan model, and using different options that included (or not) an expansion of long-term services and supports and included (or not) income-related cost-sharing. Almost every option resulted in considerable savings compared to the baseline health expenditure of $517 billion per year with the exception of scenarios that both expanded long-term services and supports and contained zero cost-sharing for consumers.

3) *Availability of federal waivers.* At the crux of the issue on how unified financing, whether single payer or not, could be achieved in California is how to draw down the federal dollars that are currently being spent on health care in California. The Commission's report found that unified financing cannot be accomplished in California without federal support. Commissioners disagreed about whether federal participation could be accomplished through existing Medicare, Medicaid, and ACA waiver authority, or whether changes in federal law would be required. Waiver authority allows a state to ignore certain federal program rules for experimental or demonstration projects which are generally required to cost no more than what the federal government would have spent on the program without the waiver.

[NOTE: For full analysis, see Senate Health Committee analysis, noting that the amendments taken on April 24, 2023 were in response to the policy comments.]

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

According to the Assembly Appropriations Committee, according to HHS, establishing the workgroup, conducting quarterly meetings, providing quarterly updates, and submitting a report to the Legislature with recommendations by June 2024 will cost HHS an indeterminate amount, potentially in the low millions of dollars for fiscal year 2023-24 and ongoing (General Fund).

SUPPORT: (Verified 9/9/23)

Healthy California Now (source)
American Civil Liberties Union
Butte County Health Care Coalition
California Alliance for Retired Americans
California Conference of Machinists
California Federation of Teachers AFL-CIO

California OneCare
California Pan-Ethnic Health Network
California Physicians Alliance
California Teamsters Public Affairs Council
Central Coast Alliance United for a Sustainable Economy
Clinica Monseñor Oscar A. Romero
Consumer Watchdog
Courage California
Equality California
Gray Panthers of San Francisco
Health Access California
Healthcare for All Working Group
Inland Empire Immigrant Youth Collective
Inland Equity Partnership
Latino and Latina Roundtable of the San Gabriel and Pomona Valley
League of Latin American Citizens of Riverside, Council 3190
National Union of Healthcare Workers
Orange County Action
Physicians for a National Health Program - California Chapter
Placer County Democratic Central Committee Legislation Committee
SEIU California
Therapists for Single Payer
UNITE-HERE, AFL-CIO
Western Center on Law and Poverty
12 individuals

OPPOSITION: (Verified 9/9/23)

America's Physician Groups
Association of California Life & Health Insurance Companies
California Agents and Health Insurance Professionals
California Association of Health Plans
California Chamber of Commerce
California Nurses Association/National Nurses United
Democratic Socialists of America – Los Angeles
Fannie Lou Hamer Institute
Health Care for US
La Defensa
Topanga Peace Alliance
Trade Show Temps
40 individuals

ARGUMENTS IN SUPPORT: This bill's sponsor, Healthy California Now, writes that this bill builds upon the findings and recommendations of the Healthy California for All Commission appointed by the Legislature and Governor, which in its final report cited the advantages of unified financing system for healthcare in California. They say that this bill establishes concrete timelines and clear objectives for the work already budgeted by the Legislature enabling the Newsom administration to explore with the federal government the range of terms it might accept in a waiver for use of California's share of federal healthcare dollars to facilitate the creation of a unified healthcare financing system. Additionally, this bill establishes a stakeholder process to ensure constituencies including healthcare consumers and caregivers, unions, and the full range of community stakeholders will have a voice in the report it requires from the administration on policy and financing issues for action by the Legislature in 2024.

Supporter Health Access California, whose director served on the Commission, write that the Commission report usefully detailed the many policy issues that would be needed to transition to a unified health system. This bill is not an attempt to decide each issue or debate, but to facilitate California's efforts to work through some of questions as well as to get clarity on the "threshold issue" of federal approval of the use of Medicare, Medicaid, and other federal dollars. The ability or willingness of the federal government to grant such approval would then shape what California can and should pursue in its ongoing health reform discussions.

ARGUMENTS IN OPPOSITION: A group of health plans, insurers, physicians groups, and the California Chamber of Commerce wrote in opposition to this bill stating that the ultimate goal is to ultimate goal is to force all Californians out of their existing health coverage – including Medicare, employer-based coverage and ACA plans – and into a new untested government-run system, with no ability to opt out or choose private coverage instead.. They also point out that any waiver obtained through this bill would not be permanent and could be disallowed by Congress at any time, eliminating 40% of the funding for the new health care system. This bill also requires raising taxes by roughly $300 billion a year. Finally, this bill provides little details on how the transition to this system would be achieved, how providers would be reimbursed, and could ultimately cause providers to leave the state.

The California Nurses Association/National Nurses United (CNA), who also had seat on the Commission, writes in opposition stating that a new waiver workgroup would unnecessarily rehash the time, work, and resources expended by HHS and the Healthy California for All Commission and potentially delay the implementation of single-payer health care in California until 2028. The Healthy

California for All Commission already has completed an analysis of federal health care waivers, including an analysis by independent legal counsel. CNA also states that because HHS cannot lawfully preapprove federal health care waivers, protracted informal discussions with HHS are futile. Finally, CNA states that the proposed new waiver workgroup lacks transparency. The Legislature must not rely on an unaccountable workgroup to ensure that all Californians have a right to comprehensive health care but should instead develop and pass legislation to approve a single-payer program before the development of a federal waiver application can begin in earnest. A number of other organizations and individuals raise these same points in their opposition.

Prepared by: Jen Flory / HEALTH / (916) 651-4111
9/13/23 20:45:17

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

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

UNFINISHED BUSINESS

Bill No: SB 779
Author: Stern (D), et al.
Amended: 9/8/23
Vote: 21

SENATE HEALTH COMMITTEE: 9-2, 4/12/23
AYES: Eggman, Gonzalez, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NOES: Nguyen, Glazer
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 26-8, 5/31/23
AYES: Allen, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Glazer, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto
NO VOTE RECORDED: Alvarado-Gil, Archuleta, Caballero, Dodd, Menjivar, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Primary Care Clinic Data Modernization Act

SOURCE: SEIU California

DIGEST: This bill, effective on January 1, 2027, adds intermittent clinics that are exempt from licensure to an existing requirement that clinics file an annual report to the Department of Health Care Access and Information (HCAI) with specified information. This bill creates new reporting requirements for all primary care

clinics, including intermittent clinics, to report various types of data to HCAI, including a labor report and a workforce development report.

Assembly Amendments delete the reporting of clinic mergers and acquisitions, delete the reporting of quality and equity measures, delay implementation until January 1, 2027, add a requirement that clinics report the five highest compensated employees who make more than $100,000 if the clinic is already required to report this information to the Internal Revenue Service on a Form 990, and make a number of technical, clarifying, and conforming changes.

ANALYSIS:

Existing law:

1) Licenses and regulates clinics, including primary care and specialty clinics, by the California Department of Public Health (CDPH). [HSC §1200, et seq.]

2) Defines a primary care clinic as either a "community clinic," which is operated by a non-profit corporation and uses a sliding fee scale to charge patients based on their ability to pay, or a "free clinic," which is also required to be operated by a non-profit but is not allowed to charge patients. [HSC §1204]

3) Exempts various types of clinics from licensure by CDPH, including clinics operated by the federal government or by a federally recognized Indian tribe on tribal land, any primary care clinic operated by the state, counties, or cities, a clinic operated by any institution of learning that teaches a healing art, medical foundation clinics, and the offices of physicians in group practice who provide the preponderance of their services to members of a health plan. [HSC §1206]

4) Exempts from licensure by CDPH an intermittent clinic that is operated by a licensed primary care community clinic on separate premises from the licensed clinic and is only open for no more than 40 hours each week. An intermittent clinic operated under this exemption is still required to meet other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety. [HSC §1206(h)]

5) Requires every clinic holding a license to file with HCAI an annual report (known as the annual utilization report, or AUR) showing the following information relating to the previous calendar year:

    a) Number of patients served and descriptive information, including age, gender, race, and ethnic background of patients;

b) Number of patient visits by type of service, including child health and disability prevention screens, treatment, and follow-up services, medical services, dental services, and other health services;

c) Total clinic operating expenses;

d) Gross patient charges by payer category, including Medicare, Medi-Cal, the Child Health Disability Prevention Program, county indigent programs, other county programs, private insurance, self-paying patients, nonpaying patients, and other payers;

e) Deductions from revenue by payer category, bad debts, and charity care charges; and,

f) Additional information as required by HCAI or CDPH. [HSC §1216]

6) Permits CDPH, in the event a clinic fails to file a timely report as required in 5) above, to suspend the license of the clinic until the report is completed and filed with HCAI. [HSC §1216(b)]

This bill:

1) Adds intermittent clinics, beginning on January 1, 2027, that are exempt from licensure to an existing requirement that licensed clinics file an annual report with certain specified information for the previous calendar year, known as the AUR.

2) Revises the AUR, beginning on January 1, 2027, to require clinics to report more detailed demographic information on patients served, including preferred language spoken, disability status, sexual orientation, gender identity, and payer category. Prohibits a clinic from being subject to any adverse action for not providing sexual orientation and gender identity information if the patient refuses to provide that information.

3) Revises the AUR, beginning on January 1, 2027, to require primary care clinics participating in the Medi-Cal program to include the number of members per Medi-Cal managed care plan and county indigent program, and the number of assigned members per Medi-Cal managed care plan and county indigent program that had clinic visits.

4) Revises the AUR, beginning on January 1, 2027, to require primary care clinics to report the average weekly number of clinic operating hours and whether or not the clinic is licensed or intermittent.

5) Requires, beginning on January 1, 2027, an organization that operates or owns a primary care clinic, and intermittent clinics operated by a licensed clinic, to file with HCAI, by February 15th each year, the following:

   a) The Medi-Cal FQHC/RHC prospective payment system rate, if applicable;

   b) A detailed labor report, including the following information:

      i) The actual number of employees and full-time equivalents, as well as contracted or registry staff, by job classification, including nonlicensed and noncredentialed positions at the beginning and end of the reporting period;

      ii) The number of staff vacancies by job classification;

      iii) The average base hourly wages and base hourly wage ranges by job classification for each classification with three or more employees; and,

      iv) For clinics required to file a Form 990 with the Internal Revenue Service, information identifying job title and salary of the five highest compensated employees, who receive reportable compensation of more than $100,000.

      v) Aggregated workforce demographic information for each clinic site, including age, gender, race, ethnicity, languages spoken, disability status, sexual orientation, and gender identity. Prohibits workers from being required to provide this information or from being disciplined for not providing the information; and,

   c) A detailed workforce development report, including the following:

      i) Participation in any local, regional, or statewide labor-management cooperation committee (LMCC) , and the identity of all partners; and,

      ii) Data about the nature and extent of participation in allied health care professional degrees and certificate programs, including, but not limited to, the number of clinical placements for each program.

6) Repeals a requirement, effective January 1, 2027, that specialty clinics who receive funds from a tobacco tax, as specified, complete the full AUR report, and recast the specialty clinic reporting requirements to delete obsolete references.

7) Requires HCAI to maintain a file of all reports under this bill and under existing law at its Sacramento office, and subject to any rules HCAI may prescribe, and in compliance with federal and state laws, requires these reports to be produced and made available for inspection upon the demand of any person, and to also be posted on HCAI's website, to the extent permissible.

8) Revises a provision of law that permits CDPH to suspend the license of a clinic until its AUR report is filed by applying this provision to the new reporting requirements in this bill, and also permitting CDPH to suspend the license of any clinic who does not file a report for any intermittent clinic it operates.

9) Requires HCAI to send a written notice of violation to every clinic that fails to file a timely report under this bill or under specified provisions of existing law, either for itself or for any intermittent clinic it operates, and to also provide CDPH with a list of every clinic that receives a written notice of violation. Requires these notices to be available on HCAI's internet website.

Comments

1) *Author's statement.* According to the author, community clinics are integral to our state's health care system, but we are facing a crisis exacerbated by the pandemic and its aftermath. Recent events have brought into sharp focus the workforce shortages faced by our clinics, exposing vulnerabilities in California's social safety net and disparities in healthcare. Action must be taken to ensure safe and efficient care, without delays. It is crucial that the state better track the interplay between primary care clinic finances, workforce, and quality of care. Accurate, comprehensive data collection will enable better policymaking and more thoughtful investments that empower workers while fostering more equitable healthcare in historically marginalized communities.

2) *Background on primary care clinics and intermittent clinics.* Under existing law, a licensed primary care clinic is permitted to operate an off-site clinic for up to 40 hours per week, without obtaining a separate license for these offsite locations. According to CDPH, only clinics licensed by CDPH are captured by the Electronic Licensing Management System, so intermittent clinics are not tracked by CDPH. There are currently 1,388 licensed primary care clinics (1,339 community clinics, and 49 free clinics). However, intermittent clinics report to the Provider Enrollment Division at DHCS, which reports that there are currently 795 listed intermittent clinics. In 2018, which is the year AB 2204 (Gray, Chapter 279, Statutes of 2018) extended the number of hours an intermittent clinic could operate from 30 to 40 hours, CDPH reported 1,630 licensed primary care clinics, while there were just 171 intermittent clinics.

Clearly, the expansion of the number of hours an intermittent clinic could operate has led to an increase in the number of intermittent clinics, and a commensurate drop in the number of licensed clinics.

3) *Background on existing data collection for clinics.* There are a number of existing data reporting obligations for clinics. As noted in existing law, a primary reporting requirement is the AUR report to HCAI. In addition, the federal Health Resources and Services Administration (HRSA) requires FQHC and FQHC look-alikes (clinics that meet the federal definition for an FQHC, but are not receiving grant funding as FQHCs) to report a core set of information, including data on patient characteristics, services provided, clinical processes and health outcomes, patients' use of services, staffing, costs, and revenues as part of a standardized reporting system known as the Uniform Data System (UDS). For some of the data requirements in this bill, the sponsors state that it is a modification of a data item already reported in some fashion, or (in the case of the PPS rate) public disclosure of something already collected. In other cases, it is a new data item for clinics, but something similar is collected for other types of facilities, such as mergers and acquisitions, which is reported in some form for hospitals and long-term care facilities. However, for many of the data items in this bill, the sponsor states that it is a new data item.

4) *Clinic workforce shortage.* According to a 2016 report by National Association of Community Health Centers, workforce challenges are one of the primary barriers to health center patient growth. If all health center clinical vacancies were filled today, health centers could serve two million more patients. At that time, prior to COVID-19's impact on the health care workforce, 95% of health centers had at least one clinical vacancy, and were averaging a vacancy rate for clinical positions of 13%. The number one challenge in recruitment and retention named was the ability to offer competitive salaries. According to the Kaiser Family Foundation, California has 643 areas with a Health Professional Shortage Area designation for primary care, meaning one-third of Californians live in an area with a primary care provider shortage.

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

According to the Assembly Appropriations Committee:

1) HCAI estimates costs of $2,037,000 in fiscal year (FY) 2024-25, $1,064,000 in FY 2025-26, $1,186,000 in FY 2026-27, and $1,186,000 per year, ongoing, to pay for seven additional staff positions, contracting resources, and enhancements to existing information systems and data infrastructure (California Health Data and Planning Fund).

HCAI reports the additional staff positions will be needed to support the development of regulations, initial program design, and the enhancement of information systems and data infrastructure. Some of the funds would also be needed for consulting resources in FY 2024-25 to support the enhancement of HCAI information systems and data infrastructure. In FY 2025-26 and ongoing, additional staff will support data collection, data review, and data dissemination of the new clinic utilization reports, as well as to ensure data is reported only in an aggregate form that cannot be used to identify an individual.

2) DPH reports minor and absorbable costs.

SUPPORT: (Verified 9/7/23)

SEIU California (source)
Buen Vecino
California Alliance for Retired Americans
California Black Health Network
California Labor Federation
California League of United Latin American Citizens
California Rural Legal Assistance Foundation
California School Employees Association
California Teachers Association
Center on Policy Initiatives
Central Coast Alliance United for a Sustainable Economy
Central Coast Labor Council
Clergy and Laity United for Economic Justice
Council on American-Islamic Relations, California
Dolores Huerta Foundation
Fresno, Madera, Tulare, Kings Counties, Center Labor Council
Los Angeles Alliance for a New Economy
Los Angeles County Democratic Party
North Valley Labor Federation

OPPOSITION: (Verified 9/7/23)

AltaMed Health Services
Altura Centers for Health
APLA Health & Wellness
Calexico Wellness Center
CaliforniaHealth+ Advocates
California Human Development
California Medical Association

Center for Employment Training
Central City Community Health Center
Central Valley Opportunity Center
Clinica Sierra Vista
CommuniCare Health Centers
Community Health Association Inland Southern Region
Community Medical Centers
El Proyecto del Barrio, Inc.
Farmworkers Institute of Education and Leadership Development
First Day Foundation
Fresno American Indian Health Project
Gardner Health Services
Golden Valley Health Centers
Health Alliance of Northern California
Health Center Partners of Southern California
Hill Country Health & Wellness
Inland Coalition for Immigrant Justice
La Clinica de la Raza
La Cooperativa Campesina de California
Lifelong Medical Care
Los Amigos de la Comunidad
Neighborhood Healthcare
North Coast Clinics Network
North East Medical Services
Northeast Valley Health Corporation
Ochin, Inc.
OLE Health
Proteus
San Diego Regional Chamber of Commerce
San Francisco Community Clinic Consortium
San Ysidro Health
Shasta Community Health Center
St. Jude Neighborhood Health Center
TCC Family Health
To Help Everyone Health and Wellness Centers
Valley Community Healthcare
Venice Family Clinic
Westside Family Health Center

ARGUMENTS IN SUPPORT: This bill is sponsored by the SEIU California to increase accountability, quality, and transparency in health care by updating annual

data reporting for California's licensed primary care clinics. According to SEIU California, over the past decade, the number of clinics in California have grown significantly with much of this growth being in intermittent clinic sites. Today, intermittent clinic sites do not report data directly, but under the licensed clinic they are affiliated with, which means data across two or more physical locations is aggregated under one licensed clinic site. SEIU California states there is no limit on how many intermittent clinics can be under a licensed clinic site and many serve distinct communities and populations. This results in an AUR dataset that no longer provides accurate information of local experience and can no longer meet the needs of policymakers and stakeholders. SEIU California points to data that indicate the number of clinic sites, inclusive of licensed and intermittent sites, has grown from roughly 1,500 sites in 2012 to 2,700 sites in 2021. In 2012, just under over 1,000 licensed sites reported data, or 70% of all CDPH listed sites. In 2021, on the other hand, just under 1,200 licensed sites reported data, or just 43% of all CDPH listed sites. The total number of licensed sites completing the AUR is decreasing, and not just because clinic corporations are choosing to open more intermittent sites, but also because they are converting previously licensed sites to be intermittent sites. Additionally, SEIU California states that we need to modernize the data we collect by building upon currently collected workforce data, incorporating quality data, and expanding financial data reporting.

ARGUMENTS IN OPPOSITION: Calexico Wellness Center opposes this bill, stating that it creates unnecessary burdensome data reporting requirements on community clinics and exposes these community clinics to civil penalties. Such burdensome requirements and penalties should not be places on clinics at a time when hospitals are closing their doors due to financial strains. Rural, low-income communities are facing many challenges, including food shortage, unemployment, violence and health disparities, and these communities are mainly served by FQHCs. This bill will have a negative impact on undocumented communities, and California should not place additional requirements on community clinics that have limited financial resources to serve patients. The Farmworkers Institute of Education and Leadership Development (FIELD) makes similar arguments in opposition, and states that the Central Valley, Imperial Valley and rural areas have historically experienced a shortage of healthcare facilities and workers, and California must prioritize these communities in investing job training funds for health care worker, not create burdens. CaliforniaHealth+ Advocates, the advocacy affiliate of the California Primary Care Association, opposes this bill unless amended, stating that this bill is a solution in search of a problem, and that clinics already report to multiple entities such as the Health Resource and Services Administration, HCAI, and various payors. Additionally, just last session the Legislature created the Office of Health Care Affordability, with responsibilities to

manage spending targets, monitor system performance, and assess market consolidation. According to CaliforniaHealth+ Advocates, under current law, clinics report PPS rates, a full income statement, and patient data, among other data. While improving data standardization is an on-going and worthy effort, the amount of data clinics already submit on an annual basis is robust.

Prepared by: Vincent D. Marchand / HEALTH / (916) 651-4111
9/13/23 20:45:24

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

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

UNFINISHED BUSINESS

Bill No: SB 791
Author: McGuire (D)
Amended: 6/15/23
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 4/12/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas, Wilk

SENATE JUDICIARY COMMITTEE: 11-0, 4/18/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, McGuire, Min, Niello, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/30/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Postsecondary education: academic and administrative employees: disclosure of sexual harassment

SOURCE: Author

DIGEST: This bill requires the governing board of a community college district and the Trustees of the California State University (CSU), and requests the Regents of the University of California (UC), to require an application for appointment to an academic or administrative position to disclose any final administrative or

judicial decision issued within the last seven years determining that the applicant committed sexual harassment.

Assembly Amendments (1) limit the required disclosure of any final administrative decision or final judicial decision to the seven years prior to applying to an academic or administrative position; (2) require applicants to be allowed to disclose if they have filed an appeal; and, (3) modify the definition of "final administrative decision" and adds a definition of "sexual harassment."

ANALYSIS:

Existing law:

Title IX

1) Provides that, in part, "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program of activity receiving Federal financial assistance." Enforcement of compliance is initiated upon the filing of a complaint alleging a violation of Title IX. (Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act)

2) Requires each school district and county office of education, or a local public or private agency that receives funding from the state or federal government, to designate a person to serve as the Title IX compliance coordinator to enforce compliance at the local level, including coordinating any complaints of non-compliance. (Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act)

3) Requires each educational institution in California (K-12 and postsecondary education) to have a written policy on sexual harassment, and requires schools to display the policy in a prominent location in the main administrative building or other area of the campus or schoolsite, be provided as part of any orientation program for new students, provided to each faculty member, administrative staff and support staff, and appear in any publication of the school that sets forth the rules, regulations, procedures and standards of conduct. (Education Code (EC) § 231.5 and § 66281.5)

Appointees and employees

4) Requires the Trustees of the CSU to provide for, by rule, for the government of their appointees and employees, including but not limited to*:* appointment; classification; terms; duties; pay and overtime pay; uniform and equipment allowances; travel expenses and allowances; rates for housing and lodging; moving expenses; leave of absence; tenure; vacation; holidays; layoff; dismissal; demotion; suspension; sick leave; reinstatement; and employer's contribution to employees', annuitants', and survivors' health benefits plans. (EC § 89500)

5) Requires a community college district, prior to making a decision relating to the continued employment of a contract employee, to meet certain requirements including an evaluation of the employee and the governing board's receipt of recommendations of the superintendent or president of the district or community college. (EC § 87607)

Existing reporting related to campus crime statistics

6) Requires, pursuant to the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, all higher education institutions that participate in federal student aid programs to prepare, publish, and distribute annual security reports disclosing specified campus crime statistics and campus security policies. Reportable crimes include homicides, sex offenses, robberies, aggravated assaults, domestic violence, dating violence, sexual assault, and stalking. (Unites States Code, Title 20, § 1092)

7) Requires the State Auditor to conduct an audit of a sample of at least six institutions of postsecondary education in California that receive federal student aid to do both of the following:

   a) Evaluate the accuracy of the institutions' statistics and the procedures used by the institutions to identify, gather, and track data for publishing, disseminating, and reporting accurate crime statistics in compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics; and,

   b) Evaluate the institutions' compliance with state law governing crime reporting and the development and implementation of related policies and procedures. (EC § 67382)

This bill:

1) Requires the governing board of a community college district and the CSU Trustees, and requests the UC Regents, to require an application for appointment to an academic or administrative position to disclose any final administrative or judicial decision issued within the last seven years from the date of submission of the application determining that the applicant committed sexual harassment.

2) Requires that applicants be permitted to disclose if they have filed an appeal with the previous employer, or, if applicable, with the United States Department of Education.

3) Prohibits a community college district and the CSU Trustees, and requests the UC Regents, from asking an applicant to disclose, orally or in writing, information concerning any final administrative decision or final judicial decision, including any inquiry about an applicable decision on any employment application, until the community college district, Trustees, or Regents have determined that the applicant meets the minimum employment qualifications stated in the notice issued for the position.

4) Defines the following terms:

   a) "Final administrative decision" the written determination of whether or not sexual harassment occurred as determined by the decision-maker following the final investigative report and the subsequent hearing.

   b) "Final judicial decision" means a final determination of a matter submitted to a court that is recorded in a judgment or order of that court.

   c) "Sexual harassment" has the same meaning as the existing definition in the Education Code or, if applicable, as the existing definition in federal regulations.

Comments

Need for the bill. According to the author, "Recent reports and news have exposed serious incidents of sexual harassment and misconduct against students and faculty across our college campuses. While title IX protections exist to protect our public institutions, bad actors escape the consequences of their egregious actions by moving from one campus to the next. Hiring committees also may not have access

to a full scope of complaints at the time of their hiring process. This bill will ensure campuses have access to history of misconduct to ensure they are fully informed when making their hiring decisions to foster an environment of safety and trust across all our state campuses."

Recent State Audit. On July 18, 2023, the State Auditor released an audit related to the CSU system's handling of sexual harassment complaints involving executives, faculty, and staff at the Chancellor's Office and three campuses (Fresno, San Jose, and Sonoma). The audit made several findings, including that without sufficient guidance, campuses did not appropriately investigate some allegations of sexual harassment; campuses have not always provided adequate discipline or corrective actions; and, the Chancellor's Office must take a more active approach to overseeing campuses. The audit made several recommendations for actions that the CSU should take, including standardizing how campuses make and document their decisions about whether sexual harassment allegations warrant a formal investigation. [http://www.auditor.ca.gov/reports/2022-109/index.html]

Assessment of CSU's practices. The CSU hired a private firm (Cozen O'Connor) in March 2022 to conduct a systemwide assessment of its Title IX and Discrimination, Harassment and Retaliation (DHR) programs. The stated goal is to "strengthen CSU's institutional culture by assessing current practices and providing insights, recommendations, and resources to advance CSU's Title IX and DHR training, awareness, prevention, intervention, compliance, and support systems." The Cozen O'Connor report was released on July 17, 2023; this report recommends that the Chancellor's Office shift from the current consultative model to an active oversight model to introduce tiered accountability and ensure effective collaboration, leadership and advice. Recommendations are focused at both the system and campus level and fall into six general categories: strengthen the Chancellor's Office oversight and supervision; address infrastructure challenges; prevention, education, training and awareness; recommendations to address other conduct of concern; address the trust gap; and enhanced accountability. [https://www.calstate.edu/titleix/Documents/california-state-university_systemwide-report_july-17-2023.pdf]

Prior State Audits. The State Auditor released a report in June 2018 regarding the UC's handling of sexual harassment complaints involving faculty and staff harassers and student victims. This report concludes that "although the university has been aware of issues with its responses to sexual harassment complaints and has taken steps to address them, it must do more to stop, prevent, and remedy sexual harassment at its campuses. Notably, we found that the three campuses we visited—Berkeley, Davis, and Los Angeles—took much longer to discipline

faculty in the Academic Senate than they did to discipline staff. On average, the three campuses disciplined staff within 43 days after the conclusion of an investigation compared to 220 days for faculty in the Academic Senate. In addition, the three campuses disciplined faculty inconsistently, especially those faculty who were the subjects of multiple sexual harassment complaints. We also found that the three campuses inconsistently followed Title IX guidance in their informal and formal processes to address sexual harassment complaints. The three campuses frequently exceeded investigation time frames without obtaining approved time extensions and they often did not send all required information to the complainants and respondents. Finally, the university's Office of the President established a systemwide Title IX office (systemwide office) in February 2017 with a goal to implement a consistent and coordinated response systemwide to complaints of sexual harassment. However, to make the systemwide office more effective, the Office of the President needs to define how much consistency it desires and provide the systemwide office the necessary authority to achieve it. We identified three areas in which the systemwide office should play a central role in the university's efforts to prevent and respond to sexual harassment: setting policy, analyzing applicable data, and overseeing the campuses. Based on feedback from external entities and internal groups, the university has taken steps to improve its response to complaints of sexual harassment, but our audit found that the university needs to take additional steps to fully resolve the concerns that reviewers have raised." [https://www.auditor.ca.gov/pdfs/reports/2017-125.pdf]

Updated policies of the CSU. The CSU Board of Trustees approved new policies in July 2022, to bolster and clarify employment practices.

1) The CSU now has a systemwide policy governing administrator employees' option to retreat. The policy applies to all administrator appointments made at a CSU campus or the Chancellor's Office which include the option to retreat to a faculty position. The policy is intended to be prospective and does not impact retreats granted prior to its effective dates except on a case-by-case basis in the event of a serious policy violation.

   The opportunity to "retreat" to a faculty position is frequently offered to faculty who are required to relinquish tenure in order to become a university administrator. The opportunity to retreat gives the new administrator the option to return to a faculty position when their administrative role at the university comes to an end. New or continuing administrators often negotiate the opportunity to retreat as a term of their employment as an administrator because university administrators, unlike tenured faculty, are at-will employees who

have no assurance of permanent employment.

The new policy includes the following guidance:

a) An administrator will be ineligible to exercise the option if there is a finding of misconduct or the administrator is under investigation for misconduct.

b) Memorialization of terms of the retreat will be placed in the administrative appointment letter.

c) There must be consultation with the tenured faculty in the respective department to which the individual would potentially return. [Viewing Employment Policy Governing Administrator Employees' Option to Retreat (policystat.com)]

The CSU now has a systemwide policy governing the provision of employee references. The Employment Policy Governing the Provision of Employee References outlines the principles and procedures guiding the provision of references. Under the policy, the CSU will not provide positive letters of reference, verbal or written, for any current or former employee who has engaged in significant misconduct that resulted in non-retention, is currently under investigation for misconduct or violation of university policy, or has had their retirement benefits rescinded under the Public Employees' Pension Reform Act due to criminal misconduct associated with their official duties. The policy further provides guidance on references requested by third parties, employment verification for current or former employees, personal references and references within the CSU. [https://calstate.policystat.com/policy/12142918/latest/]

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

According to the Assembly Appropriations Committee, this bill would impose the following costs:

1) One-time General Fund costs of about $100,000 for UC to update hiring manuals and update procedures. Ongoing General Fund costs of an unknown but potentially significant amount to UC for administrative costs related to adding an extra step to each hiring process.

2) Ongoing General Fund costs of an unknown but potentially significant amount to CSU for administrative workload related to adding an extra step to each

hiring process. In addition, CSU anticipates potential liability costs.

3) One-time General Fund costs to the CCC Chancellor's Office of between $74,654 and $116,941 to update regulations and policies. One-time Proposition 98 General Fund costs to CCC campuses of about $2,900 per CCC to update existing policies, procedures, or memorandums of understanding, resulting in statewide costs of up to $332,000. Ongoing Proposition 98 General Fund costs of an unknown but potentially significant amount to CCC campuses related to adding an extra step to each hiring process

SUPPORT: (Verified 9/13/23)

California Faculty Association
California State University Employees Union

OPPOSITION: (Verified 9/13/23)

Stop Abuse for Everyone

ARGUMENTS IN SUPPORT: According to the author, "Recent reports and news have exposed serious incidents of sexual harassment and misconduct against students and faculty across our college campuses. While Title IX protections exist to protect our public institutions, bad actors escape the consequences of their egregious actions by moving from one campus to the next. Hiring committees also may not have access to a full scope of complaints at the time of their hiring process. This bill will ensure campuses have access to history of misconduct to ensure they are fully informed when making their hiring decisions to foster an environment of safety and trust across all our state campuses.

"Opposition alleges that the required disclosure of final administrative decisions in this bill should be removed because the administrative decision finding process at higher education institutions does not provide due process for the accused, but this is simply not the case. Title IX coordinators work with campus officials and system wide specialists to guarantee Title IX policy. They are required to conduct a full investigation into any claims of harassment, and give all parties an opportunity to present their sides. Parties also have the right to appeal final determinations. It is also unrealistic to expect all cases of sexual harassment would go to court as not everyone has the financial means to file a lawsuit, not to mention it is an extremely difficult process for survivors of sexual harassment."

ARGUMENTS IN OPPOSITION: According to Stop Abuse for Everyone, "Final decisions based on the investigative findings of a Title IX compliance

coordinator, or other designated investigator, at a college or university are fraught with biases driven by ideological beliefs. Rarely are the due process rights of alleged offenders upheld. Adjudications at the college campus level resulting in *final administrative decisions* should never be conflated with *final judicial decisions* recorded in a judgment or order of a court."

Prepared by: Lynn Lorber / ED. / (916) 651-4105
9/13/23 20:40:49

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

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

UNFINISHED BUSINESS

Bill No: SB 799
Author: Portantino (D), Durazo (D) and Holden (D), et al.
Amended: 8/22/23
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 9/13/23 (Pursuant to Senate Rule 29.10)
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas
NOES: Wilk

ASSEMBLY FLOOR: 59-18, 9/11/23 - See last page for vote

SUBJECT: Unemployment insurance: trade disputes: eligibility for benefits

SOURCE: California State Treasurer Fiona Ma
AFSCME
California Labor Federation
California State Legislative Board of the SMART – Transportation Division
United Food & Commercial Workers Western States Council

DIGEST: This bill authorizes workers involved in a trade dispute to collect unemployment insurance (UI) benefits, after a two-week wait period, while they are on strike.

Assembly Amendments struck previous contents dealing with the California Department of Corrections and Rehabilitation to address UI for striking workers.

ANALYSIS:

Existing law:

1) Creates a comprehensive UI system, administered by the Employment Development Department (EDD), where employers pay an experienced-based tax on total payroll that are used to fund UI benefits to unemployed workers. (UI Code §§ 301, 602, 675, 926, 970, 977 & 1251)

2) Defines a worker as "unemployed" in any week in which they meet any of the following conditions:

   a) Any week during which they perform no services and with respect to which no wages are payable to them;

   b) Any week of less than full-time work, if the wages payable to them with respect to the week, when reduced by $25 or 25% of the wages payable, whichever is greater, do not equal or exceed the worker's weekly benefit;

   c) Any week for which, a worker is unable to work due to mental or physical health illness or injury, as specified; or,

   d) Any week during which they perform full-time work for five days as a juror, or as a witness under subpoena. (UI Code §1252)

3) Provides that an individual is disqualified for UI benefits if the individual left their most recent work voluntarily without good cause or have been discharged for misconduct connected with their most recent work. (UI Code §1256)

4) Provides that an individual is not eligible for UI benefits if the individual left their work because of a trade dispute; individual shall remain ineligible for the period during which they continue out of work because of the fact that the trade dispute is still in active progress. (UI Code §1262)

5) Provides that, when EDD learns that a trade dispute is in progress, EDD must promptly conduct an investigation and make investigation findings as to the nature, location, labor organizations and employers involved, and other relevant facts it deems necessary. Provides that the EDD shall provide its findings to its field offices in locations affected by the trade dispute, and must, upon request, make its findings available to any employer, employers' association or labor organization involved in the trade dispute. (UI Code §1262.5)

This bill:

1) Permits individuals involved in a trade dispute, other than a lockout, to be eligible to collect UI benefits after a two-week waiting period.

2) Defines "lockout" to mean any refusal by an employer to permit any group of five or more employees to work as a result of a dispute with such employees affecting wages, hours or other terms or conditions of employment of such employees.

3) Codifies a California Supreme Court Decision (*Coast Packing Co. v. California Unemployment Insurance Appeals Board (1966) 64 Cal. 2d 76*) that found individuals who were deprived of work as a result of an employer lockout or similar action eligible for UI benefits.

Background

1) *UI Benefits*. UI provides weekly benefits, for up to a maximum of 26 weeks, unless extended by law, to workers who are unemployed (or underemployed) through no fault of their own and who are able to, available for and actively seeking work. Eligibility for UI benefits is set by law and administered by California's Employment Development Department (EDD).

2) *Claimant Benefit Calculations.* A claimant's eligibility for benefits depends on their attachment to the labor force determined by computing a minimum earnings test. This requirement denies benefits to claimants whose earnings in a 12-month "base period" are below a specified minimum. UI benefits range from $40 to a maximum of $450 per week. In 2022, the average benefit amount was $342 per week. The United States total for the 12 month average of weekly benefit amounts ranged from $352.67 to $401.44.[1]

3) *Financing Structure.* The UI program is financed by employers who pay unemployment taxes on the first $7,000 in wages paid to each worker. The tax rates are set based on schedules laid out in state law, which require higher rates, up to a maximum of 6.2 percent, when the condition of the UI trust fund is poor.[2] Working much like other insurance programs, the actual tax rate varies for each employer, depending in part on the amount of UI benefits paid to

[1] U.S. Department of Labor, State UI Program Data, US totals https://oui.doleta.gov/unemploy/claimssum/5159report.asp
[2] Alamo, Chas. "Repaying the State's Federal Unemployment Insurance Loan," Legislative Analyst's Office, May 26, 2021. https://lao.ca.gov/Publications/Report/4442

former employees. Referred to as being "experience rated," this method of taxing ensures that employers who lay off or otherwise discharge more workers bear more of the costs of paying for the UI system. An employer may earn a lower tax rate when fewer claims are made on the employer's account by former employees.

It is important to remember that UI benefits only provide up to a maximum of $450 a week. Considering the median weekly income of a Californian is roughly triple that amount, a worker is not likely to be incentivized to go on strike simply because they can get UI benefits. Because UI is "experience rated," striking workers who claim UI benefits impact their employer's UI tax rate for that year and not the rates of other employers. The UI system as a whole, however, faces insolvency which impacts all employers and a remedy for this long-standing problem has yet to be addressed.

4) *UI Trust Fund Status*. Due to the sudden and immense impact of COVID-19, the UI Fund became temporarily insolvent on April 29, 2020, and fluctuated in and out of solvency until maintaining a deficit starting June 3, 2020. As a result, in 2020, California began borrowing from the federal government to pay regular UI benefits, and ended the year with a federal loan balance of $17.8 billion. The loan balance is estimated to be $20.3 billion by the end of 2024.[3]

   In order to repay the principal on the federal loan, federal law imposes a tax increase on employers, referred to as the Federal Unemployment Tax Act (FUTA) credit reduction. This happens when a state UI Fund is in deficit for two consecutive years. Once this occurs, the state loses 0.3 percent of the FUTA tax credit each year, which is the equivalent of an increase in federal taxes of $21 per worker per year. An estimation of $423 million in 2023 and $872 million in 2024 are expected to be collected.[4]

   The state pays the interest on these loans from the General Fund. This interest payment is expected to be about $300 million in 2023-24."[5] The federal loan is not expected to be paid off until between 2030 and 2032, depending on low and high-cost scenarios. In 2022, the Legislature passed and signed AB 178 (Ting, Chapter 45, Statutes of 2022) which, among other things, included a $250

[3] EDD May 2023 UI Fund Forecast
[4] Employment Development Department: May 2023 Unemployment Insurance (UI) Fund Forecast. https://edd.ca.gov/siteassets/files/pdf/edduiforecastmay23.pdf
[5] Alamo, Chas. "New Unemployment Insurance Fund Forecast Shows Imbalance," Legislative Analyst's Office, July 7, 2023. https://lao.ca.gov/LAOEconTax/article/Detail/779

million appropriation from the General Fund to go towards paying down some of the federal UI loan.

5) *How does California's taxable wage base compare to other states?* According to the United States Department of Labor, almost all states have adopted a higher taxable wage base than applicable under FUTA ($7,000) for purposes of assessing state UI taxes. Some states have established flexible taxable wage bases that are automatically adjusted, generally on an annual basis. According to the US DOL, most of these states index the taxable wage base to the state's average annual wage. Other states tie the taxable wage base to the health of the state's trust fund balance.

   California, however, has neither a taxable wage base above $7,000 nor a provision in law that automatically adjusts the taxable wage base if FUTA is amended to apply to a higher amount.[6] In reviewing the US DOL data comparisons, it appears that Washington is the state with the highest taxable wage base at $62,500. At the lower end, California shares the lowest $7,000 taxable wage base with Tennessee, Arizona, Florida, Puerto Rico and Louisiana at $7,700.[7] According to the US DOL, besides the U.S. Virgin Islands, California's trust fund was the least adequately funded of all 53 UI programs heading into the pandemic.[8]

6) *Data on Strikes.* According to data from the Bureau of Labor Statistics (BLS), from 2012-2022, there were at least 56 strikes in California with only two that lasted over two weeks. BLS tracks strikes where at least 1,000 workers participated. The two strikes that lasted over two weeks both occurred in 2022, with one lasting 64 days total (Kaiser Permanente 8/15/22 to 10/18/22) and the other lasting 39 days total (University of California 11/14/22 to 12/23/22).[9] Currently, the Writers Guild of America members have been on strike since May 2023 and members of SAG-AFTRA have been on strike since July 2023.

7) *Need for this bill?* According to the author, "There is tremendous concern within our workforce across California. Currently, we see writers, hotel workers, nurses, city and county workers all striking, and it is deeply concerning. It's better for the worker and the economy to have job security and

[6] U.S. Department of Labor, Comparison of State Unemployment Laws 2022. Chapter 2 – Financing, 2-4 and 2-5. https://oui.doleta.gov/unemploy/pdf/uilawcompar/2022/complete.pdf
[7] U.S. Department of Labor, Comparison of State Unemployment Laws 2022. Chapter 2 – Financing, 2-5. https://oui.doleta.gov/unemploy/pdf/uilawcompar/2022/complete.pdf
[8] U.S. Department of Labor, "State Unemployment Insurance Trust Fund Solvency Report 2020," https://oui.doleta.gov/unemploy/docs/trustFundSolvReport2020.pdf
[9] U.S. Bureau of Labor Statistics, https://www.bls.gov/web/wkstp/monthly-listing.htm.

a seat at the table as we negotiate the future of the workforce, while business and economic models change. Even coming out of a strike, when folks eventually get a contract that they agree on, their families have suffered during this time. SB 799 will help workers put food on their table when they need it most, in the middle of a labor negotiation."

Related/Prior Legislation

SB 227 (Durazo, 2023) establishes the Excluded Workers Program within EDD to provide income assistance to unemployed excluded workers who are not eligible for regular state or federal UI benefits due to their immigration status.
AB 1066 (Gonzalez, 2019) would have permitted individuals in a trade dispute to collect UI compensation after a three-week waiting period. AB 1066 failed on the Senate Floor and was later amended to address another issue in the UI Code.

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

According to the Assembly Appropriations Committee:

1) One-time costs of an unknown amount, likely in the low-to-mid hundreds of thousands of dollars, to the Employment Development Department (EDD) to update administrative practices due to this bill. The majority of the costs would be for information technology modifications, but also staff resources to review and modify certain forms, policies, procedures, and training (Unemployment Administration Fund).

2) Ongoing costs of an unknown amount, likely in the low millions to tens of millions of dollars, to the state's UI Fund in additional payments to employees newly eligible for benefits (Unemployment Fund). The magnitude of the impact is difficult to predict, but ultimately depends on the number of strikes that occur, the duration of the strikes, and the number of impacted employees. According to data from the Bureau of Labor Statistics, which tracks strikes involving at least 1,000 workers, there were at least 56 strikes in California from 2012 to 2022, with only two strikes lasting over two weeks (one lasted 64 days and the other lasted 39 days). However, there are currently two strikes ongoing in California that have each exceeded two weeks.

   In addition to the direct impact of additional benefit payments, EDD notes this bill could indirectly impact the repayment of California's outstanding federal UI loan, further discussed in comment 3 of their analysis.

SUPPORT: (Verified 9/13/23)

California State Treasurer Fiona Ma (co-source)
American Federation of State, County and Municipal Employees, CA (co-source)
California Labor Federation, AFL-CIO (co- source)
California State Legislative Board of the SMART – Transportation Division (co-source)
United Food & Commercial Workers Western States Council (Co- source)
Attorney General Rob Bonta
Actors Equity Association
California-Nevada Conference of Operating Engineers
California Alliance for Retired Americans
California Conference Board of The Amalgamated Transit Union
California Conference of Machinists
California Democratic Socialists of America
California Faculty Association
California Federation of Teachers, AFL-CIO
California IATSE Council
California Nurses Association
California Professional Firefighters
California Rural Legal Assistance Foundation
California School Employees Association
California State Pipe Trades Council
California State University Employees Union
California Teachers Association
California Teamsters Public Affairs Council
Central Coast Labor Council
City of Oakland
City of West Hollywood
Communication Workers of America, District 9
Directors Guild of America, Inc.
Engineers and Scientists of California, IFPTE Local 20
Entertainment Union Coalition
International Brotherhood of Electrical Workers, Local 18
Insurance Commissioner Ricardo Lara / California Department of Insurance
Monterey Bay Central Labor Council, AFL-CIO
National Union of Healthcare Workers
Northern California District Council – Int. Longshore and Warehouse Union
Peace and Freedom Party of California
SAG-AFTRA

San Fernando Valley Young Democrats
Service Employees International Union, California State Council
Service Employees International Union, Local 1000
State Building and Construction Trades Council of California
State Superintendent of Public Instruction Tony Thurmond
Transport Workers Union of America
United Auto Workers, Region 6
United Domestic Workers/AFSCME Local 3930
Union of American Physicians & Dentists
UNITE-HERE, AFL-CIO
United Farm Workers
United Nurses Associations of California/Union of Health Care Professionals
United Steelworkers, District 12
Utility Workers Union of America
Western States Council of Sheet Metal, Air, Rail, & Transportation Workers
Writers Guild of America West

OPPOSITION: (Verified 9/13/23)

Acclamation Insurance Management Services
Agricultural Council of California
Air Conditioning Sheet Metal Association
Alameda Chamber of Commerce
Allied Managed Care
American Council of Engineering Companies
Anaheim Chamber of Commerce
Association of California School Administrators
Associated General Contractors
Associated General Contractors - San Diego Chapter
Association of California Healthcare Districts
Association of Western Employers
Auto Care Association
Bay Area Council
BizFed Los Angeles County Business Federation
Brea Chamber of Commerce
Building Owners and Managers Association
Calforests
California Asian Pacific Chamber of Commerce
California Association of Joint Powers Authorities
California Association of Licensed Security Agencies, Guards & Associates
California Association of Recreation & Park Districts

California Association of Sheet Metal & Air Conditioning Contractors National
California Association of Winegrape Growers
California Attractions and Parks Association
California Bankers Association
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Employment Law Council
California Farm Bureau
California Fuels and Convenience Alliance
California Golf Course Owners Association
California Grocers Association
California Hospital Association
California Hotel & Lodging Association
California League of Food Producers
California Manufacturers & Technology Association
California Restaurant Association
California Retailers Association
California Special Districts Association
California Staffing Professionals (CSP)
California State Association of Counties (CSAC)
California Taxpayers Association
California Tire Dealers Association
California Travel Association
California Trucking Association
Can Manufacturers Institute
CAWA - Representing the Automotive Parts Industry
Central Coast Labor Council
Coalition of Small and Disabled Veteran Businesses
Construction Employers' Association
Corona Chamber of Commerce
Dixon District Chamber of Commerce
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Family Business Association of California
Family Winemakers of California
Finishing Contractors Association of Southern California
Flasher Barricade Association

Folsom Chamber of Commerce
Fremont Chamber of Commerce
Fresno Chamber of Commerce
Gateway Chambers Alliance
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Hawthorne Cat
HOLT of California
Housing Contractors of California
Huntington Beach Chamber of Commerce
Kern County Board of Supervisors
Laguna Niguel Chamber of Commerce
League of California Cities
Livermore Valley Chamber of Commerce
Lodi Chamber of Commerce
Lomita Chamber of Commerce
Los Angeles Area Chamber of Commerce
Manteca Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
NAIOP California
National Electrical Contractors Association
National Federation of Independent Business
North Bay Leadership Council
Northern California Allied Trades
Norwalk Chamber of Commerce
Orange County Business Council
Orange County Taxpayers Association
Palos Verdes Peninsula Chamber of Commerce
Paso Robles & Templeton Chamber of Commerce
Peterson CAT
Peterson Power Systems
Peterson Tractor
Peterson Trucks
Rancho Cordova Area Chamber of Commerce
Resource Recovery Coalition of California
Ridgecrest Chamber of Commerce
Roofing Contractors Association of California
Roseville Area Chamber of Commerce
Rural County Representatives of California

Sacramento Metropolitan Chamber of Commerce
Santa Ana Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Silicon Valley Leadership Group
Simi Valley Chamber of Commerce
Southern California Contractors Association
Southern California Glass Management Association (SCGMA)
Southwest California Legislative Council
TechNet
Torrance Area Chamber of Commerce
Tri County Chamber Alliance
Tulare Chamber of Commerce
Twenty First Century Alliance
United Chamber Advocacy Network
United Contractors
Urban Counties of California
Vacaville Chamber of Commerce
Vista Chamber of Commerce
Wall and Ceiling Alliance
Walnut Creek Chamber of Commerce
West Ventura County Business Alliance
Western Carwash Association
Western Electrical Contractors Association
Western Growers Association
Western Line Constructors Chapter
Western Painting & Coating Contractors Association
Western Wall & Ceiling Contractors Association
Yorba Linda Chamber of Commerce
Yuba Sutter Chamber of Commerce

ARGUMENTS IN SUPPORT: According to proponents, "The decision to go on strike is not one that union members take lightly. Striking workers lose all income for the duration of their job action. Workers deplete their savings as bills pile up, rent and mortgages go unpaid, and debt accumulates. Corporations rely on the expectation that striking workers will have few resources, and their strategy is often to starve workers until they give up their demands for better wages, fair compensation, and job security."

In response to opponent arguments, they write, "the opposition, claims that this bill will extend tax increases on all employers, but that is due to the existing UI debt caused by the structural insolvency of our system. UI benefits are generally charged to an individual employer, not the system overall. Employers that drag out strikes to force workers from their homes and into debt would bear any increase in UI taxes, not all employers."

ARGUMENTS IN OPPOSITION: A coalition of employers, including the California Chamber of Commerce, are opposed to this bill arguing that it would effectively require employers to subsidize striking workers, even if those workers or labor strikes had nothing to do with the employer. They argue that giving striking workers the ability to claim unemployment will add the cost of those benefits to California's outstanding loans. They note that, though the amount that such strikes would add to the UI Fund debt is hard to calculate specifically – due to uncertainty as to how many strikes occur, how long they last, and how many workers take part – they "estimate that, if SB 799 had been in effect during the previous twelve months, it would have added approximately $215 million to the UI Fund's debt. Additionally, we would expect it to add approximately $30 million per week if it were in effect now." Furthermore, they write that, "SB 799 will also add to the state's general fund obligation regarding the UI Fund. For example, in 2023-2024, the interest payment is expected to cost the state approximately $300 million – and similar payments will continue until the UI Fund returns to solvency."

ASSEMBLY FLOOR: 59-18, 9/11/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis

NO VOTE RECORDED: Irwin, Petrie-Norris, Villapudua

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
9/13/23 19:38:12

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

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

UNFINISHED BUSINESS

Bill No: SB 806
Author: Archuleta (D)
Amended: 9/8/23
Vote: 21

SENATE JUDICIARY COMMITTEE: 11-0, 4/25/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Niello, Stern, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Trash receptacles and storage containers: reflective markings: enforcement

SOURCE: Author

DIGEST: This bill authorizes the Attorney General, or the district attorney or city attorney in the location where a violation is observed, to enforce the law requiring certain markings to be placed on trash receptacles, including reflectors and certain contact information. This bill establishes a fund within the State Treasury where all collected fines are to be deposited.

Assembly Amendments change the technical specifications for the reflective markings and provide a right to cure.

ANALYSIS:

Existing law:

1) Requires motortrucks, semitrailers, and buses 80 or more inches in width to be equipped with an amber reflector on each side at the front and a red reflector on each side at the rear, and if the vehicle is 30 or more feet in length, the vehicle must be equipped with an amber reflector on each side at the approximate midpoint of the vehicle. (Veh. Code § 24068.)

2) Provides vehicles with a gross vehicle weight rating of over 10,000 may alternatively comply with reflector-marking requirements set forth in federal regulations; they must also be equipped with the federally mandated conspicuity system consisting of retroreflective sheeting, reflex reflectors, or a combination thereof. (Veh. Code §§ 244611; *see* 49 C.F.R. 571.108.)

3) Requires truck tractors and certain vehicles 80 or more inches in width to be equipped with at least three red emergency reflectors, maintained in good working condition, to be used when the vehicle is disabled on the roadway during darkness, in configurations contingent upon the distance of the vehicle from the road. (Veh. Code § 25300.)

4) Requires electrically motorized boards operated upon a highway during darkness to be equipped with, among other things, a red reflector on the rear that is visible from a distance of 500 feet, and a white or yellow reflector on each side that is visible from a distance of 200 feet. (Veh. Code § 21293.)

5) Requires utility or public utility vehicles operated during darkness to have a warning light, which may consist of a reflector, not more than 50 feet in advance of the vehicle and not more than 50 feet to the rear, or farther as specified when the speed limit on the highway is in excess of 25 miles per hour. (Veh. Code, § 25301.)

6) Provides, generally, that reflectors on the front of a vehicle shall be white or yellow, and generally prohibits the use of red reflectorizing material on the front of a vehicle. (Veh. Code, §§ 25500, 25950.)

7) Authorizes a writ of mandate to be issued by any court to compel the performance of a legal duty imposed on a public body. (Code Civ. Proc., § 1085(a); *James v. State of California* (2014) 229 Cal.App.4th 130, 136.)

8) Requires that a manufacturer who sells or provides for compensation a trash receptacle or storage container that is designed to be placed on a roadway or the curb of a roadway in order to be emptied or picked up shall mark the trash receptacle or storage container with a reflector on each side, beginning January 1, 2025. (Health & Saf. Code § 26275.)

9) Requires the above reflector markings to include a strip of reflective tape that is at least six inches wide and four inches long placed vertically over each corner of the container where two vertical sides of the container meet. The reflective tape must be fluorescent yellow and made of high-performance retroreflective sheeting of American Society for Testing and Materials (ASTM) D4956-13 Type IX. The requirement applies to any trash receptacle or storage container marketed for sale on and after January 1, 2025, as well as any receptacle or container manufactured previously but still under the ownership of the manufacturer. (Health & Saf. Code § 26275.)

10) Requires an owner, other than the manufacturer, of a trash receptacle or storage container that is designed to be placed on a roadway or the curb of a roadway in order to be emptied or picked up shall mark the trash receptacle or storage container with a reflector on each side, beginning January 1, 2026. (Health & Saf. Code § 26275.)

11) Requires that an owner of a trash receptacle or storage container who sells or provides it for compensation that is designed to be placed on a roadway or the curb of a roadway in order to be emptied or picked up shall clearly label the trash receptacle or storage container with the owner's name and current telephone number, beginning January 1, 2025. (Health & Saf. Code § 26275.)

12) Provides that a manufacturer or owner, other than a local government entity, who violates the above provisions is guilty of an infraction punishable by a fine, as follows:

    a) $100 for the first infraction;

    b) $500 for the second infraction; and

    c) $1,000 for the third and any subsequent infractions. (Health & Saf. Code § 26275.)

This bill:

1) Amends the technical specifications of the type of reflective markings required to be placed on trash receptacles. It applies the law to containers and receptacles that are on roadways or curbs, rather than those "designed to be placed" in such places.

2) Authorizes the Attorney General, or the district attorney or city attorney in the location where a violation of the trash receptacle reflector law is observed, to enforce this section.

3) Provides a 14-day right to cure any violations upon notice.

4) Establishes the Accident Prevention and Road Safety Fund in the State Treasury.

5) Provides that all fines for violations of the reflector law are to be deposited in the above fund. Such funds are available upon appropriation by the Legislature.

Background

In order to address the safety issues with unmarked trash receptacles for motorists, cyclists, and pedestrians, legislation was passed to require reflectors on specified bins beginning January 1, 2025. Owners are also required to place their name and phone number on the bins. This bill amends the technical specifications of those markings.

A manufacturer or an owner who violates this section is guilty of an infraction punishable by a fine of $100 for the first violation, $500 for the second violation, and $1,000 for the third, or any subsequent violation.

To ensure enforcement of this law, this bill authorizes the Attorney General, or the district attorney or city attorney in the location where a violation is observed, to enforce this section. It further specifies that any collected fines are to be deposited into the Accident Prevention and Road Safety Fund, which is created in the State Treasury by this bill. A right to cure is provided for violations.

This bill is author-sponsored. There is no known support or opposition.

Comments

SB 1111 (Archuleta, Chapter 244, Statutes of 2022) was introduced and signed into law in response to concerns that the absence of nighttime safety markings on large trash receptacles that are placed in the street for pickup can be a safety hazard for motorists, cyclists, and pedestrians who might not see the receptacles until it is too late. SB 1111 established the Rick Best Safety Act, which requires a person who sells, or provides for compensation, a trash receptacle or storage container designed to be placed on the side of the road or curb to be emptied, which is larger than three feet in length and four feet in height (collectively, bins), to mark the bin with a reflector on each side, beginning on January 1, 2025.

Owners of bins purchased before the marking requirement takes effect have until January 1, 2026, to add reflectors to their bins. The law also requires bin owners, beginning January 1, 2025, to mark their bins with their name and telephone number so as to ensure that they can be contacted in the case of violations.

A violation of the reflector and labeling requirements is an infraction, unless the owner or seller is a local government entity, punishable by an escalating fine: $100 for the first violation, $500 for the second violation, and $1,000 for the third and any subsequent violations.

The law becomes operative on January 1, 2025.

This bill makes several changes to this law. It creates the Accident Prevention and Road Safety Fund in the State Treasury. All fines collected in connection with violations of this law are to be deposited into this fund. Moneys in the fund are available upon appropriation by the Legislature.

This bill also provides that the Attorney General, or the district attorney or city attorney in the location where a violation is observed, may enforce the law. As it stands, public prosecutors are given broad authority to enforce violations of the law, pursuant to statutes such as the Unfair Competition Law, for instance. This provision works to ensure that these public prosecutors are among those offices that can so enforce the Rick Best Safety Act. The bill also provides a 14-day right to cure, which will arguably hamper compliance and enforcement, especially as it applies to subsequent violations.

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

According to the Assembly Appropriations Committee: "Negligible state costs, if any."

SUPPORT: (Verified 9/12/23)

None received

OPPOSITION: (Verified 9/12/23)

None received

ARGUMENTS IN SUPPORT: According to the author:

> The Best Safety Act, named after long time legislative staff and lobbyist Roderick "Rick" Best who sadly passed away after a traffic accident with an unmarked dumpster, is a necessary safety measure that will protect the lives of everyone on our roadways. This commonsense bill will require large trash receptacles placed on roads or curbs that are virtually invisible on a dark night to have reflective markings on both sides. Making our roads safer for all will save lives and prevent serious injuries.

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
9/13/23 20:43:53

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

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

UNFINISHED BUSINESS

Bill No: SB 814
Author: Roth (D), et al.
Amended: 7/6/23
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 4/24/23
AYES: Roth, Nguyen, Alvarado-Gil, Archuleta, Ashby, Becker, Dodd, Eggman, Glazer, Niello, Smallwood-Cuevas, Wahab, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/30/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Household Goods and Services

SOURCE: Author

DIGEST: This bill requires the Bureau of Household Goods and Services (BHGS or Bureau) to post specified information on its internet website within a designated timeframe, subjects the BHGS to legislative review as if the BHGS were scheduled to be repealed on January 1, 2028, makes an Electronic and Appliance Repair (EAR) registration that is not renewed within six years to be canceled, as specified, permits certain licenses to be issued to a Limited Liability Company (LLC), as specified, merges the funds of the BHGS into one single fund, and deletes a requirement for the BHGS to review the financial resources of an applicant for a Household Movers (HHM) permit.

Assembly Amendments merge the three separate funds administered by the Bureau into one single fund; authorizes Bureau licensees to be LLCs and made other conforming and definitional changes to improve the efficiency of the laws governing Bureau regulated entities.

ANALYSIS:

Existing law:

1) Establishes the BHGS within the jurisdiction of the DCA and sets the date for legislative oversight of the BHGS on January 1, 2024. (Business and Professions Code (BPC) § 9810)

2) Establishes the EAR Law which requires licensure for those providing repair services for televisions, microwave ovens, audio and video playback equipment, video cameras, video games, copiers, computer systems, smart phones, tablets/ the repair and installation of auto stereo and alarm equipment, interlock ignition devices and residential satellite/antenna equipment, major home appliances, such as refrigerators, freezers, stoves/ovens, washer, dryers, dishwashers and trash compactors, and the sale and administration of service contracts for various consumer items sold or used for personal, family or household use. (BPC § 9800 et. seq.)

3) Establishes the Home Furnishing and Thermal Insulation (HFTI) Act, which requires licensure of furniture and bedding manufacturers, importers, wholesalers, retailers, supply dealers, custom upholsterers, thermal insulation manufacturers, and bedding sanitizers. (BPC § 19000 et. seq.)

4) Establishes the HHM Act with licensing and enforcement duties for HHMs. (BPC § 19225 et. seq.)

This bill:

1) States that the BHGS must conduct spot check investigations of service dealers, as specified, no less than twice per year, and clarifies that the BHGS can post required regulatory information available on its internet website.

2) States that an EAR registration that is not renewed within six years is canceled, but if the holder submits a new application and meets specified requirements, the registration may be reinstated.

3) Deletes the requirement for the BHGS to review an applicant's financial resources, integrity, ability, and knowledge to issue a permit as a HHM.

4) Subjects the BHGS to review by the appropriate Legislative policy committees as if the BHGS were scheduled to be repealed on January 1, 2028.

5) Extends the operation of various provisions relating to service contractors from January 1, 2024, to January 1, 2028.

6) Permits specified licensees to obtain a license as a LLC, as specified.

7) Merges the three funds of the BHGS into one single Household Goods and Services Fund by July 1, 2026.

8) Makes other technical, updating and conforming changes.

Background

In early 2023, the Senate Business, Professions and Economic Development Committee and the Assembly Committee on Business and Professions (Committees) began their comprehensive sunset review oversight of eight regulatory entities. This bill and the accompanying sunset bills are intended to implement legislative changes as recommended by staff of the Committees, and which are reflected in the Background Papers prepared by Committee staff for each agency and program reviewed this year.

BHGS is responsible of the oversight and regulation of the EAR Law (BPC §§ 9800 et seq.), the Home Furnishings and Thermal Insulation Act (BPC §§ 19000 et seq.), and the Household Movers Act (BPC §§ 19225 et seq.). Although the Bureau administers three practice acts, the Bureau's regulatory structure is divided into four distinct areas of regulation: (1) home furnishings and thermal insulation, (2) electronic and appliance repair, (3) service contracts, and (4) household movers.

The BHGS was reviewed as part of the sunset review program in 2018 and 2022. Due to the constraints of the COVID-19 pandemic on legislative business, the legislature extended the BHGS's sunset review date, by one year, until January 1, 2023, in order to allow for a comprehensive review schedule. The following are some of the issues pertaining to the BHGS along with background information concerning the particular issue.

BPC Section 19239(a) requires a HHM applicant to establish the ability and reasonable financial responsibility to initiate the proposed operations. Further, BPC Section 19239(g) specifies for the bureau to issue a permit only to those applicants who it finds have demonstrated that they possess sufficient knowledge, ability, integrity, and financial resources and responsibility to perform the service within the scope of their application. The Bureau reports that it is not equipped to

determine whether an applicant is financially responsible or has sufficient financial resources, and in order to do so would need to perform some form of credit check and/or financial audit of all applicants. To do so would increase Bureau costs and time to process applications. In addition, it is not clear to the Bureau as to what level of documentation would be necessary or what amount of resources would be deemed "sufficient." As a result, the Bureau is requesting BPC Section 19239(g) be deleted from statute entirely.

Existing renewal requirements under the EAR program do not provide a timeframe for which a registration remains expired and is no longer accruing delinquency fees. By comparison, existing HFTI law prohibits an expired license from being renewed after six years of the license expiring (BPC § 19170.5). The Bureau recommends updating EAR provisions to be consistent with BPC Section 19170.5 (HFTI program) to state that a registration not renewed within six years of expiration shall not be renewed, restored, reinstated, or reissued so that renewal and delinquency fees are not accrued indefinitely. The Bureau also recommends updating HFTI provisions, which require a business pay all renewal, delinquency, and penalty fees accrued for six years although the business is required to apply for a new license.

Because the Bureau administers three separate funds, there may be duplicate administrative work, such as reviewing separate fund expenditure and revenue reports, and separating each application, audit report, or fine to make sure it was charged to the appropriate fund. With the recent addition of the HHM fund, performing budget, accounting, and administrative Bureau functions is becoming increasingly onerous on staff time and resources. This bill merges the three funds into one single Household Goods and Services Fund and sunsets the old funds.

There may be a number of non-substantive, technical changes, or statutory updates which many improve operations and efficiencies of the Bureau. Since the Bureau's last sunset review in 2018, there have been at least nine separate pieces of legislation that affect the Bureau and its operations, not including the transition and regulation of an entirely new licensing group. There may be a number of statutory revisions, which need to be made to ensure the Bureau's three practice acts, and four regulatory classifications are up-to-date.

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

According to the Assembly Committee on Appropriations, the bill will result in ongoing costs of approximately $13.6 million annually to support the continued operation of BHGS's licensing and enforcement activities until 2028. BHGS anticipates negligible costs to comply with the changes in this bill, which BHGS

indicates are minor and technical. DCA's Office of Information Services estimates costs of $24,000 to build license reinstatement functionality in BHGS's IT system which are absorbable in existing resources.

SUPPORT: (Verified 9/12/23)

California Moving and Storage Association

OPPOSITION: (Verified 9/12/23)

None received

ARGUMENTS IN SUPPORT: The California Moving and Storage Association writes that it wholeheartedly supports continuing the role of BHGS and the requested changes to the HHM.

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
9/13/23 20:40:48

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

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

UNFINISHED BUSINESS

Bill No: SB 816
Author: Roth (D)
Amended: 9/8/23
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 8-3, 9/13/23 (Pursuant to Senate Rule 29.10)
AYES: Roth, Archuleta, Ashby, Becker, Dodd, Eggman, Smallwood-Cuevas, Wahab
NOES: Nguyen, Niello, Wilk
NO VOTE RECORDED: Alvarado-Gil, Glazer

ASSEMBLY FLOOR: 59-11, 9/12/23 - See last page for vote

SUBJECT: Professions and vocations

SOURCE: Author

DIGEST: This bill makes various changes stemming from prior sunset review oversight efforts, including codifying the California Interior Design Council (CCIDC) as the certifying organization for the profession, deleting conflicting language related to the veterinary assistant controlled substance permit (VACSP) issued by the Veterinary Medical Board (VMB), and makes a clarifying change to educational institution approval by the Board of Vocational Nursing and Psychiatric Technicians (BVNPT). The bill also includes necessary revenue adjustments in order to fund special fund licensing entities within the Department of Consumer Affairs (DCA) and extends the sunset date for a required fee and collection of additional information for specified weighmasters' license applicants.

Assembly Amendments include necessary revenue adjustments in order to fund special fund licensing entities within the DCA and extended the sunset date for a required fee and collection of additional information for specified weighmasters' license applicants

ANALYSIS:

Existing law:

1) Defines a certified interior designer (CID) as "a person who prepares and submits nonstructural or non-seismic plans, as specified, to local building departments that are of sufficient complexity so as to require the skills of a licensed contractor to implement them, and who engages in the programming, planning, designing, and documenting the construction and installation of nonstructural or non-seismic elements, finishes and furnishings within the interior design space of the building and has demonstrated by means of education, experience, and examination the competency to protect and enhance the health, safety and welfare of the public." (Business and Professions Code (Business and Professions Code (BPC) § 5800(a))

2) Defines an interior design organization as "a non-profit, 501(c)(3) tax exempt organization of interior designers whose governing board includes representatives of the public, as specified." (BPC § 5800(b))

3) Permits a CID to obtain a stamp from an interior design organization that includes a unique identifying number and bears the name of the CID; whereas, the stamp certifies the CID has provided satisfactory evidence of passage of an interior design examination approved by the interior design organization and met education and/or experience requirements, as specified. (BPC § 5801)

4) Establishes the BVNPT to license and regulate licensed vocational nurses (LVNs) and psychiatric technicians (PTs) and administer the Vocational Nursing Practice Act (Act) and the Psychiatric Technicians Law (PT Law) until January 1, 2022. (Business and Professions Code (BPC) §§ 2840-2895.5 and §§ 4500-4548)

5) Establishes the VMB under the DCA, to license and regulate veterinarians, registered veterinary technicians (RVTs), to issue premises permits for veterinary hospitals, and to issue VACSPs. (BPC § 4800 *et seq*.)

6) Establishes the California Board of Accountancy (BOA) within DCA for the purpose of licensing, regulating, and enforcement of certified public accountants and accountancy corporations and sets forth specified licensing fees assessed by the BOA. (BPC §§ 5000 - 5025.3)

7) Establishes the California Board of Psychology (BOP) within the DCA for the licensure, regulation, and enforcement of psychologists and psychological associates, and the specified licensing fees assessed by the BOP. (BPC §§ 2900-2919)

8) Establishes the pharmacy board within DCA for the purpose of licensing, regulating, and enforcement of pharmacists, advanced practice pharmacists, intern pharmacists, pharmacy technicians, designated representatives, and designated paramedics, and facility licenses, and the specified licensing fees assessed by the pharmacy board. (BPC §§ 4000 - 4427.8)

9) Requires, in addition to any other requirements for issuance of a license as a weighmaster, if the applicant is a recycler or junk dealer, as defined, to provide additional information to the Department of Food and Agriculture (DFA), on an application for a weighmaster's license, as specified. (BPC § 12703.1)

This bill:

1) Names the CCIDC as the organization responsible for oversight of the voluntary certification program.

2) Permits the CCIDC to take reasonable actions to carry out its responsibilities and duties, as specified.

3) Authorizes the CCIDC to adopt bylaws, rules and procedures necessary to effectuate the purpose of the interior design act.

4) Authorizes the CCIDC to establish application fees, renewal fees, and other fees related to the regulatory costs of providing services and carrying out the CCIDC's responsibilities and duties, as specified, and states that the fees may not exceed the reasonable costs to carry to the CCIDC's cost to provide those services.

5) Revises, recasts, increases and updates various licensing and regulatory fees for the BOP, pharmacy board, Landscape Architects Technical Committee (LATC) and the California Architects Board (CAB).

6) Deletes a conflicting code section related to issuing a VACSP probationary permit.

7) Makes other technical and clarifying amendments.

Background

California Council on Interior Design Certification (CCIDC). The interior design practice act calls for a non-profit organization to oversee the administration of the voluntary interior design certification program; however, the statute does not specify current CCIDC organization in statute. This bill seeks to update the current practice act, to clarify the organization formed to administer the voluntary certification and stamp program.

The CCIDC was the organization established pursuant to Business and Professions Code Section 5800 et seq. The CCIDC is responsible for issuing a "stamp" to an individual who has met the education, experience and examination requirements specified in Business and Professions Code Section 5801. Certification from the CCIDC, enables CIDs to submit plans for non-structural, non-seismic work consistent with exemptions identified in the architecture practice act, to local building officials. CIDs engage other licensed professionals, such as contractors. Currently, interior design certification is voluntary, and non-certified individuals may provider interior design services. However, the issuance of a stamp demonstrates that the individual has met education and examination requirements.

Review of the CCIDC in the 2022. The CCIDC was previously reviewed as part of the sunset review program in 2017, and received a four-year extension at that time. Due to the constraints of the COVID-19 pandemic on legislative business, the legislature extended the CCIDC's sunset date, by one year, in order to allow for a comprehensive review. While the Committee has raised a number of issues pertaining to the CCIDC, an important issue was to be addressed in last year's sunset review bill pertaining to the CCIDC, which included updating provisions of the practice act to address technical deficiencies and better identify the CCIDC's oversight role.

The current law provides for a voluntary system whereby an interior designer may become certified and obtain a "stamp" from an interior design organization (CCIDC) by demonstrating competency through education, experience, and examination. (BPC §§ 5800 et seq.).

This issue of a commercial designation was raised during the CCIDC's last sunset review in 2017. As part of the staff background paper it was noted that, "Many interested parties have also suggested that, if a new certification for commercial

interior designers were to be created, an individual should meet the following requirements: 1) Passage of the National Council for Interior Design Qualification (NCIDQ) Exam, 2) Passage of a supplemental exam testing knowledge of the California Building Code, 3) Annual CE courses sanctioned by the California Building Officials (CALBO) and agreed upon by the interior design profession." In response to the sunset issue, in September 2017, the CCIDC held a strategic planning meeting to address the topic, which reportedly included stakeholders, CIDS, and public participants. The outcome of the meeting was the creation of the commercial designation for CIDs who wish to use that particular designation when submitting plans for approval or providing services. There is no prohibition on a CID from providing commercial design services without the commercial designation, as it is voluntary.

Veterinary Medical Board and the VACSP. The VMB licenses and regulates veterinarians, RVTs, schools/programs and veterinary premises/hospitals through the enforcement of the California Veterinary Medicine Practice Act. The VMB develops and enforces the standards for examinations, licensing, and hospital and school inspections. The veterinary medical profession provides health care to a variety of animals including livestock, poultry, and pets from birds, fish, rabbits, hamsters, and snakes to dogs, cats, goats, pigs, horses, and llamas

SB **304** (Lieu, Chapter 515, Statutes of 2013) authorized a veterinary assistant to obtain or administer a controlled substance pursuant to the order, control, and full professional responsibility of a licensed veterinarian if the person is designated by a licensed veterinarian to obtain or administer controlled substances; and holds a VACSP. Once VACSP-related regulations became effective, the VMB began issuing permits in late 2016. The Board now regulates roughly 11,200 VACSPs.

AB **2138** (Chiu, Chapter 995, Statutes of 2018) revised Business and Professions Code Section 480 to prohibit boards from denying applications based on a conviction occurred over seven years ago, was dismissed, or expunged (with the exception of serious felonies pursuant to Penal Code Section 1192.7). The bill simply deletes a conflicting code section that prohibits the VMB from issuing a probationary VACSP to clarify that the VMB may issue a probationary VACSP if it determines the applicant is eligible.

BVNPT. The BVNPT is a licensing entity within the DCA. The BVNPT is responsible for administering and enforcing both the Vocational Nursing Practice Act (Act) and the PT Law. The BVNPT also approves educational programs for both licenses. LVNs utilize technical and manual skills to provide basic nursing

care under the direction of a licensed physician or registered nurse. PTs utilize technical and manual skills to provide care to clients diagnosed with mental disorders or developmental disabilities under the direction of a physician and surgeon, psychiatrist, psychologist, rehabilitation therapist, social worker, registered nurse, or other professional personnel. The BVNPT performs lengthy and intensive reviews educational schools and programs that require expensive Nurse Education Consultants (NEC). This bill clarifies, based in a recommendation from the Office of Administrative Law to amend Business and Professions Code Subsection 2881.2(d) and 4531.1(d) to correct the statute.

Comments

DCA licensing entities do not receive General Fund support and are solely funded by revenue generated from fees paid by the regulated professionals and businesses these programs oversee. This bill was amended in June prior to a policy committee in the Assembly to include necessary revenue adjustments in order to continue funding a number of DCA licensing entities, including the LATC, the CAB, the BOP, and the Board of Pharmacy. The Board of Pharmacy's last fee bill was in 2016, SB 1039 (Hill, Chapter 799, Statutes of 2016). The new fees became effective July 1, 2017. At that time not all fees were increased. As a precursor to the bill, in 2015 the DCA performed a fee analysis for the Board. The Board's authorized budget at that time was $19,770,000. (Prior to that bill, the Board completed an audit of its fees in 2008, followed by a fee bill in 2009.) In April 2020, in response to major budget adjustments impacting the Board, fees were raised via regulation to existing statutory maximums. The Board recently contracted with Capitol Accounting Partners to conduct a fee study. The Board had previously noted in publicly available meeting materials the likely need for a fee increase and described efforts underway to secure a fee audit. The results of the fee study *California State Board of Pharmacy – Fee Audit Report 2022* demonstrated that the Board is not fully recovering its costs and noted that "to avert a crisis, we urge the adoption and implementation of the fees the Board recommends." These findings, which advised the need for licensing fee increases across almost all categories of licensees, were presented and discussed at the October 2022 Board meeting and again at the December 2022 Board Meeting. Not a single stakeholder spoke during public comments at either Board meeting or during any public legislative hearing meeting expressing a position on this revenue adjustment proposal, in either support or opposition to these fees.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, DCA anticipates revenue increases attributable to the various fee increases and DCA's Office of Information Services estimates one-time costs of $38,000 for numerous fee code updates, costs that are absorbable with the redirection of existing maintenance resources. The VMB estimates costs for additional workload to be minor and absorbable and CDFA estimates ongoing revenue of approximately $300,500 annually, until January 1, 2028, from the extension of the additional weighmaster fee for junk dealers and recyclers.

SUPPORT: (Verified 9/12/23)

American Institute of Architects California
California Board of Accountancy
California Board of Psychology
California State Board of Pharmacy
International Interior Design Association Northern California Chapter
International Interior Design Association Southern California Chapter

OPPOSITION: (Verified 9/12/23)

California Society of Health System Pharmacists

ARGUMENTS IN SUPPORT: The American Institute of Architects California, International Interior Design Association Northern California Chapter, and International Interior Design Association Southern California Chapter appreciate that the bill codifies the commercial designation being issued by CCIDC.

Various licensing programs support provisions of the bill increasing revenue to support the programs' operations and regulatory work.

ARGUMENTS IN OPPOSITION: The California Society of Health System Pharmacists writes that the Board of Pharmacy "should conduct a more thorough stakeholder engagement process and better assess their resource needs using a dynamic analysis that factors in post-pandemic utilization figures and prioritizes consumer cost implications before locking in this new fee schedule."

ASSEMBLY FLOOR: 59-11, 9/12/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson,

Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Ting, Valencia, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NOES: Megan Dahle, Davies, Essayli, Flora, Vince Fong, Gallagher, Mathis, Jim Patterson, Joe Patterson, Sanchez, Wallis

NO VOTE RECORDED: Alanis, Chen, Dixon, Hoover, Lackey, Schiavo, Soria, Ta, Villapudua, Waldron

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
9/13/23 19:42:29

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

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

UNFINISHED BUSINESS

Bill No: SB 842
Author: Bradford (D)
Amended: 9/8/23
Vote: 21

SENATE HUMAN SERVICES COMMITTEE: 4-0, 4/17/23
AYES: Alvarado-Gil, Ochoa Bogh, Menjivar, Wahab
NO VOTE RECORDED: Hurtado

SENATE HOUSING COMMITTEE: 11-0, 4/24/23
AYES: Wiener, Ochoa Bogh, Blakespear, Caballero, Cortese, McGuire, Padilla, Seyarto, Skinner, Umberg, Wahab

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Energy: petroleum refinery turnaround and maintenance

SOURCE: Author

DIGEST: This bill modifies and makes clarifying changes to the requirements on the California Energy Commission (CEC) adopted as part of the extraordinary session related to petroleum refinery turnarounds and scheduling of maintenance to protect the health and safety of employees and the public.

Assembly Amendments delete the previous unrelated language in this bill and replace it with the current language.

ANALYSIS:

Existing law:

1) Establishes the Department of Industrial Relations (DIR) within the Labor and Workforce Development Agency and designates DIR to be responsible for administering the state plan for the development and enforcement of occupational safety and health standards relating to issues covered by corresponding standards promulgated under the federal Occupational Safety and Health Act of 1970 (Public Law 91-596). Requires the state plan to be consistent with the provisions of state law governing occupational safety and health, including, but not limited to, Chapter 6 (commencing with Section 140) and Chapter 6.5 (commencing with Section 148) of Division 1, and Division 5 (commencing with Section 6300), of the Labor Code. (Labor Code §50 *et seq.)*

2) Establishes the California Refinery and Chemical Plant Worker Safety Act of 1990 which states the intent of the Legislature that the Occupational Safety and Health Standards Board and the Division of Occupational Health and Safety (Cal/OSHA) within the DIR promote worker safety through implementation of training and process safety management practices in petroleum refineries and chemical plants and other facilities deemed appropriate. Defines "process safety management" to mean the application of management programs, which are not limited to engineering guidelines, when dealing with the risks associated with handling or working near hazardous chemicals. Process safety management is intended to prevent or minimize the consequences of catastrophic releases of acutely hazardous, flammable, or explosive chemicals. (Labor Code §7850 *et seq.)*

3) Requires every petroleum refinery employer to provide to the Cal/OSHA a full schedule of planned turnarounds for all affected units for the following calendar year, and defines the schedule submitted to be treated as a "trade secret." Defines "turnaround" to mean a planned, periodic shutdown, total or partial, of a refinery process unit or plant to perform maintenance, overhaul, and repair operations and to inspect, test, and replace process materials and equipment. (Labor Code §§7872, 7873)

4) Requires the State Energy Resources Conservation and Development Commission, also known as the California Energy Commission (CEC), in

consultation with the Labor and Workforce Development Agency and labor and industry stakeholders, to consider ways to manage necessary refinery turnarounds and maintenance that would protect the health and safety of employees and the public, and minimize the impact of maintenance-related production losses on fuel prices. Authorizes the CEC, by regulation, to impose requirements governing the timing of turnaround and maintenance developed through the consultations described above. (Public Resources Code §25354.2)

This bill:

1) Requires the CEC to also consult with the DIR, in addition to the Labor and Workforce Development Agency, when considering ways to manage necessary refinery turnarounds and maintenance.

2) Requires the CEC, for any adopted regulations regarding scheduling or rescheduling of maintenance, to consult with labor and industry stakeholders and aim to avoid any adverse impacts to the safety of employees and surrounding communities, labor and equipment availability, other market impacts, and cost.

3) Specifies that no CEC regulations or action may excuse compliance with the workforce and wage requirements of stationary sources in existing statute.

Background

California gasoline fuels market is isolated. California's gasoline fuels market is geographically isolated from other locations in the U.S. that produce refined fuel products. California has 11 refineries that refine crude oil into gasoline fuel; the majority are located in and around the South Bay region in the Los Angeles Basin, some in the East Bay region of the Bay Area, and the smallest by volume produced is located in Bakersfield. The state's refineries process over 1.6 billion barrels of crude oil per day. In 2021, eighty-eighty percent of gasoline production was used in state and 12 percent was exported. These refiners produce transportation fuels that meet California standards, including the specially formulated gasoline to meet California's air quality standards mandated by the California Air Resources Board (CARB), known as California Reformulated Gasoline Blendstock for Oxygenated Blending (CARBOB) gasoline.

Unexpected disruptions and refinery facility outages can result in reduced supply and price increases. California has no ability to deliver gasoline into the state via pipelines, as the existing pipelines only deliver gasoline and other refined fuels out

of the state. As a result of California's isolated gasoline fuels market, unexpected and unplanned disruptions on the system, including unplanned and planned refinery outages, can impact the supply, which often affects price. This was the situation after the unexpected outage at the then-Exxon Mobil Torrance Refinery in February 2015 due to an explosion of the facility that resulted in an extended outage. Gasoline prices were immediately affected, as prices increased $0.25 per gallon within a week of the outage.

Extraordinary session and passage of legislation. Late last year, in response to spikes in the retail price of gasoline, Governor Newsom called the Legislature into an extraordinary session to consider ways to address the gasoline price spike. The Legislature, in turn, approved SBX1-2 (Skinner, Chapter 1, Statutes of 2023), which requires petroleum refiners to notify the CEC, under specified timelines, of any planned, unplanned or turnaround scheduled maintenance. SBX1-2 also directs the CEC, in consultation with the Labor and Workforce Development Agency and labor and industry stakeholders, to consider ways to manage necessary refinery turnarounds and maintenance that would protect the health and safety of employees and the public and authorizes the CEC to regulate the timing of turnaround and maintenance.

SB 842. This bill amends provisions of the statute enacted during the Extraordinary Session related to the CEC's development of regulations governing oil and gasoline refinery turnaround and maintenance. Specifically, the bill requires the CEC to also consult with the DIR, and to consider the existing statutory process safety management standards when evaluating ways to manage refinery maintenance. Moreover, this bill clarifies that the CEC must consult with labor and industry stakeholders for any adopted regulations regarding scheduling or rescheduling maintenance, and adds impacts the CEC must aim to avoid in developing their regulations.

Need for this bill. The author of this bill supported SBX1-2; however, when the bill was heard in the Senate Energy, Utilities and Communications Committee, the author expressed concern the bill did not require the CEC also consult with the DIR. This bill appropriately requires the CEC to consult with the DIR when considering ways to manage necessary petroleum refinery turnarounds and maintenance. Such adjustments to the CEC's refinery maintenance regulatory authority were discussed by the refinery operators, including the sponsor of this bill, during hearings in the Extraordinary Session. They raised myriad health, safety, and cost concerns with the CEC regulating refinery maintenance. This bill does not revoke the CEC's authority to regulate refinery maintenance, but does add additional considerations and process for such regulatory development with the

goal of avoiding any adverse impacts to the safety of employees and surrounding communities, labor and equipment availability, other market impacts, and cost.

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

According to the Assembly Committee on Appropriations, costs to the CEC should be minor and absorbable as existing law already directs the CEC to consider ways to manage necessary petroleum refinery turnarounds and maintenance and authorizes the CEC to adopt related regulations.

SUPPORT: (Verified 9/13/23)

Western States Petroleum Association

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to the author:

> During the special session earlier this year, the legislature approved and the Governor signed, SBX1-2 by Senator Skinner, related to California's gasoline supply and pricing issues. During the hearing of SB X1 2 before the Senate Energy, Utilities and Communications Committee which I Chair, I expressed concern about a provision in the bill that granted the California Energy Commission the authority to consider ways to manage necessary refinery turnarounds and maintenance that would minimize the impact of maintenance related production losses on fuel prices. While the bill required consultation with the Labor and Workforce Development Agency and labor and industry stakeholders, it did not require consultation with the DIR.
>
> SB 842 would add the DIR to the list of agencies that should be consulted to ensure that years of process safety management are considered. SB 842 would also add that for any regulations adopted by the CEC regarding scheduling or rescheduling of maintenance of refineries, the commission shall consult with labor and industry stakeholders and aim to avoid any

adverse impact to the safety of employees and surrounding communities, labor, equipment availability, other market impacts, and cost.

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
9/13/23 21:04:19

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

SENATE RULES COMMITTEE SB 844
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 844
Author: Jones (R)
Amended: 9/8/23
Vote: 27- Urgency

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 4/25/23
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Jones, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 5/11/23 (Consent)
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Grove

ASSEMBLY FLOOR: 80-0, 9/11/23 - See last page for vote

SUBJECT: Alcoholic beverage control: retail license transfers and beer returns

SOURCE: Author

DIGEST: This bill clarifies that an alcohol licensee who transfers an alcoholic beverage license to a premise that is under construction must follow certain notification requirements unless the construction is taking place on the premise of the existing license. Additionally, this bill revises the definition of "season brand of beer" in the Alcoholic Beverage Control (ABC) Act to also mean a brand of beer that is brewed by a manufacturer to recognize a season or holiday, as specified.

Assembly Amendments revise the definition of "season brand of beer" and add an urgency clause.

ANALYSIS:

Existing law:

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

2) Allows licenses for the retail sale of alcoholic beverages to be issued for, or transferred to, premises that are to be constructed or are in the process of construction. No alcoholic beverages shall be sold until the premises have been completed.

3) Requires that an application be signed by both the present licensee and the transferee and for the application to be filed with the Department of ABC. The Department of ABC must proceed as it would on a new application and may deny the transfer if the transferee-applicant is not qualified for a license. If such transfer also involves a change of premises, the department's approval of the new premises is required.

4) States that neither the transferor nor the transferee should assume that the license would be transferred on a particular date, or at all, merely because the application has been filed. The Department of ABC may deny the application, or protests or accusations may be filed which may result in delay or denial of the transfer. The Department of ABC is not required to investigate the personal qualifications or premises of a currently licensed person when a license is being transferred between partners and no new partner is being licensed.

5) Provides that after filing an application to engage in the sale of any alcoholic beverage at any premises, notice of intention to commence shall be posted in a conspicuous place at the entrance to the premises. The applicant is required to notify the department of the date when such a notice is first posted. No license shall be issued for the premises until the notice has been posted for at least 30 consecutive days.

6) Allows, with the Department of ABC's approval, a wholesaler or manufacturer, or a successor, to accept the return of a seasonal brand of beer from a retail licensee if the beer is exchanged for a quantity of beer of a brand produced or

sold by the same manufacturer with a value no greater than the original sales price to the retail licensee of the returned beer.

7) Defines "season brand of beer" for the provisions described above, in part, as a brand of beer that is brewed by a manufacturer to commemorate a specific holiday season.

This bill:

1) Clarifies that a licensee transferring a license to another premise that is in the process of being constructed must follow the existing 30-day notification requirement unless the construction is taking place on the premise of the existing license.

2) Revises the definition of "season brand of beer," for the above-described provision to instead mean a brand of beer that is brewed by a manufacturer to recognize a season or a holiday.

3) Contains an urgency clause.

Background

Purpose of the bill. According to the author's office, "to ensure public safety, it is important to inform people about new locations that may be authorized to sell alcoholic beverages. Under current law, a new applicant must post public notice of applications for 30 days. In some cases, they must go even further and mail a notice to anyone living within 500 feet or publish a notice in the newspaper. However, those transferring a license to a new location are not always required to follow the same requirement. Current law does not address this. The public needs to know about any new distribution point for alcohol whether the license itself is new or not. SB 844 clarifies the law to ensure that the same rules are enforced across the board."

In addition this bill addresses "a recent determination by the [Department of] ABC that will now only allow for the distribution of seasonal beers affiliated with specific holidays, a deviance from long standing practice. SB 844 restores freedom to the market and clarifies the definition of seasonal to include those that honor the four seasons. Furthermore, SB 844 encourages investment by reducing the risk faced by retailers. This bill allows a retail licensee to return the previous season's unsold stock to a distributor in exchange for an equal amount of the upcoming season's stock from the same manufacturer."

Public Notice Requirements. Alcohol licensees in California are subject to strict regulation by the Department of ABC. When an alcohol license is transferred from one location to another, the transaction is referred to as a "premises-to-premises" transfer. When an alcohol license is transferred from one person or entity to another person or entity, the transaction is referred to as a "person-to-person" transfer. Both types of transfers may occur simultaneously, depending on the situation.

Generally, investigations for the issuance or transfer of a license take approximately 55 to 65 days, and by law the license cannot be issued for a minimum of 30 days. Circumstances often result in a longer waiting period; therefore, before final approval and issuance of a license, applicants are cautioned against financial commitments, plans for grand openings, etc. If new construction or considerable remodeling is necessary, the applicant should seek prior approval before beginning any actual work.

Ultimately, it is the applicants' responsibility to post the Public Notice of Application at the premises for 30 days, and to provide information to the department as needed for the investigation. In some cases, the Department of ABC may require the applicant to publish a notice in the newspaper, mail a notice to all persons living within a 500 foot radius of the premises, and/or to obtain proof from the local planning department that the zoning permits an alcohol license.

The intended transferee is authorized to operate the licensed premises during the transfer period if a 120-day permit has been obtained. To qualify for this temporary permit, the premises must be currently licensed and have been operating within the past 30 days prior to the application.

The Department of ABC may approve an application for premises under construction. A retail license may be transferred or issued by the department to premises that are under construction and the transferor has closed the business or surrendered the license. No alcoholic beverages are allowed to be sold until the premises are completed. Actual delivery of the license is withheld until the department is satisfied that all conditions forth in state law and ABC regulations are met.

This bill clarifies that that an alcohol licensee who transfers an alcoholic beverage license to a premise that is under construction must follow certain notification requirements unless the construction is taking place on the premise of the existing license.

Return of Seasonal Brand of Beer. Currently, the precise language of the ABC Act only permits beer distributors to seek the Department of ABC's approval for the exchange of a beer that "commemorates a specific holiday season" (such as Christmas, Thanksgiving). However, many brewers brew special seasonal beers for the four seasons of winter, spring, summer, and fall, and they are only available for a limited time.

The Department of ABC has long approved the exchange of a beer that commemorates a specific holiday season and the seasonal beers. However, the department has recently notified the industry that the existing law does not define "season" in a way that matches the department's criteria for approving the swap of an old seasonal beer for a new one. Current law only permits the department to approve the exchange of beers that "commemorate a specific holiday season." SB 844 would clarify the language to read "recognize a season or a holiday and is so identified by appropriate packaging and labeling."

Related/Prior Legislation

AB 495 (Bigelow, 2022) would have clarified that an alcohol licensee who transfers an alcoholic beverage license to a premise that is under construction must follow certain notification requirements unless the construction is taking place on the premise of the existing license. (Gutted and Amended to an unrelated issue)

SB 1393 (Mcleod, Chapter 163, Statutes of 2012) allowed licensee to accept the return of unsold and unopened beer from organizations that obtain a particular license, as specified, and allowedthe return of beer that is recalled or that is considered to present a health and safety issue by the manufacturer, importer, or governmental entity if distributed, offered for sale, or sold in the state.

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

According to the Assembly Appropriations Committee, minor and absorbable costs to the Department of ABC. The Department of ABC notes the provisions of this bill regarding license transfers are consistent with the Department of ABC's interpretation of current law.

SUPPORT: (Verified 9/7/23)

California Beer and Beverage Distributors

OPPOSITION: (Verified 9/7/23)

None received

ARGUMENTS IN SUPPORT: According to the California Beer and Beverage Distributors, "the existing definition in statute only permits [the Department] of ABC to approve the exchange of beers that 'commemorate a specific holiday season.' SB 844 would clarify the language to read 'recognize a season or holiday and is do identified by appropriate packaging and labeling."

ASSEMBLY FLOOR: 80-0, 9/11/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
9/11/23 19:49:36

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

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

UNFINISHED BUSINESS

Bill No: SB 847
Author: Dahle (R)
Amended: 6/19/23
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 9-0, 4/25/23
AYES: Niello, Allen, Archuleta, Becker, Cortese, Dahle, Dodd, Newman, Seyarto
NO VOTE RECORDED: Gonzalez, Blakespear, Limón, McGuire, Nguyen, Umberg, Wahab

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 21-8, 5/31/23
AYES: Alvarado-Gil, Archuleta, Ashby, Atkins, Bradford, Caballero, Cortese, Dahle, Dodd, Eggman, Grove, Hurtado, Jones, Nguyen, Niello, Ochoa Bogh, Portantino, Roth, Seyarto, Skinner, Wilk
NOES: Blakespear, Glazer, Gonzalez, Min, Padilla, Smallwood-Cuevas, Umberg, Wiener
NO VOTE RECORDED: Allen, Becker, Durazo, Laird, Limón, McGuire, Menjivar, Newman, Rubio, Stern, Wahab

ASSEMBLY FLOOR: Not available

SUBJECT: Vehicles: motorcycle: safety helmet exception

SOURCE: Author

DIGEST: This bill authorizes the California Highway Patrol (CHP) to adopt regulations certifying a helmet offered for sale, or sold, for use by drivers and passengers of motorcycles and motorized bicycles that substantially comply with, but do not meet, the requirements imposed by the federal motor vehicle safety standards, if the helmet is designed in compliance with a driver's or passenger's religious beliefs or practices.

Assembly Amendments remove an exemption for wearing a motorcycle helmet if the rider wore a turban or patka for religious reasons and replaced it with the current CHP authorization.

ANALYSIS:

Existing law:

1) Requires any driver or passenger to wear a safety helmet when riding on a motorcycle, motor-driven cycle, or motorized bicycle. (Vehicle Code (VEH) 27803)

2) Requires safety helmets to meet requirements imposed by the Federal Motor Vehicle Safety Standards and be conspicuously labeled as in accordance with such. (VEH 27802)

This bill authorizes the California Highway Patrol (CHP) to adopt regulations certifying a helmet offered for sale, or sold, for use by drivers and passengers of motorcycles and motorized bicycles that substantially comply with, but do not meet, the requirements imposed by the federal motor vehicle safety standards, if the helmet is designed compliance with a driver's or passenger's religious beliefs or practices.

Comments

1) *Purpose of bill.* According to the author, "Freedom of religion is a core foundation of this country. We, as Americans, have the right to freely express our religion and I believe that right should equally extend to everyone. Any law that limits the ability to express ones religion, goes against what this country is all about. While current law does not intentionally discriminate against certain religions, the reality is that those who practice those religions, are limited in how they can express their customs."

2) *Motorcycle helmets save lives.* Every year there are thousands of deaths and injuries of motorcyclists involved in crashes. According to the Center for Disease Control, more than 5,500 motorcyclists died in 2020, and more than 180,000 were treated in emergency departments for crash injuries. The economic costs of these injuries and deaths are significant: $81 million in medical costs and $57.8 billion from lives lost.

In 2017 the National Highway Traffic Safety Administration published a report analyzing the impact helmets had on motorcyclist. According to that report, helmets saved the lives of 1,872 motorcyclists in 2017. If all motorcyclists had worn helmets, an additional 749 lives could have been saved. Helmets are estimated to be 37% effective in preventing fatalities to motorcycle riders and 41% for motorcycle passengers.

Every year NHSTA conducts the National Occupant Protection Use Survey, which provides nationwide observed data on motorcycle helmet use. In 2021 this survey found that in states requiring every rider to use a helmet 86% of riders wore a helmet while in other states only 53% wore a helmet. In states without universal helmet laws, 55% of motorcyclists killed in 2021 were not wearing helmets, as compared to 9% in states with universal helmet laws.

3) *California's motorcycle helmet law.* In 1966, federal legislation authorized the withholding of highway funds from any state that failed to enact a mandatory helmet requirement. A majority of states complied with the federal requirement, but California remained one of three states that did not comply. It was not until 1991 that California achieved full compliance through the enactment of AB 7 (Floyd, Chapter 32, Statutes of 1991).

   Subsequently, in 1995, the federal government repealed the penalty sanction for states without helmet laws, giving individual states a choice in deciding to require the use of motorcycle helmets. The Legislature has heard several bills in the years since that would have created exemptions in the universal helmet law and has passed none of them.

4) *Turbans, patkas, and Sikhism.* The 2021 American Community Survey estimated that 211,000 Sikhs live in California, nearly half of all Sikhs living in the United States. The Sikh Reht Maryada is a code of conduct and conventions for orthodox Sikhism. This code of conduct includes a dress code requiring Sikhs to carry five articles of faith, referred to as the Panj Kakkar. Among these articles is the Kesh, the practice of allowing one's hair to grow naturally, without being cut. Because of the Kesh Sikhs also wear head coverings as a part of their faith, to cover and protect their hair. Sikh men are specifically required to tie a dastaar, or turban, as a symbol of humility and the supremacy of God. Many Sikh children wear patkas, a cloth head covering secured with strings, due to the shorter length of their Kesh or difficulty in tying a dastaar. Some Sikh men also choose to wear patkas, larger than those worn by children.

5) *Alternative helmets.* According to the report *An Analysis of Hospitalized Motorcyclists in the State of Maryland Based on Helmet Use and Outcome*, operators injured in crashes and transported to a shock trauma center indicated that 56% of those wearing a "novelty helmet" received head injuries compared to 19% of those wearing a federally certified helmet. In 2011, NHTSA attempted to make it easier for riders and law enforcement officials to identify non-compliant helmets by requiring all compliant helmets manufactured after May 13, 2013 to have a certification decal which includes the phrase "FMVSS No. 28 certified." California law requires helmets to have that label to comply with the state's requirement to wear a helmet. In 2015, NHTSA updated its definition of motorcycle helmet to prevent the marketing of novelty helmets as motorcycle helmets. NHTSA created a process for approving helmets for manufacturers whose helmets do not comply with proposed dimensional and compression requirements, but do comply with the performance requirements and all other aspects of the federal rule.

   There currently is no approved helmet for those of the Sikh faith. A company called Tough Turban has designed a turban that uses non-Newtonian foam that hardens on impact, 3D-printed chainmail, and a composite fabric used in bulletproof clothing, to create a turban that can lessen the impact of a motorcycle accident. This "Tough Turban" has no current public safety data available. This bill creates the potential avenue for the Tough Turban, or a similar type of helmet, to comply with California's helmet law if, CHP determines that it substantially complies with the federal requirement.

6) *Promoting safety and expression*. Federally certified motorcycle helmets save lives, and "novelty helmets" fail to provide the same protection as a federally certified helmet. Nonetheless, it is possible for a "novelty helmet" to provide better protection than no protection at all. Riding a motorcycle without a certified helmet is against current state law. However, certain faiths that enjoy riding motorcycles are likely to never to wear a helmet not because of a disbelief in a helmets safety benefit or preference to avoid compliance with state laws, but because their religious faith prohibits them from doing so. For these reasons, this bill authorizes the CHP to certify helmets that comply with religious beliefs even though they will not provide the same protections as a federally certified helmet.

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

According to the Assembly Appropriations Committee, should the CHP elect to implement this bill, it could create state cost pressure. Establishing helmet regulations might require an investment of millions of dollars if conducted in-house. This would involve hiring qualified staff, setting up testing procedures, and acquiring the necessary equipment, extending over 12-18 months. Alternatively, outsourcing testing could still cost hundreds of thousands of dollars and might not be easily attainable. Liability concerns encompass multiple aspects. CHP's ability to provide motorcycle safety training for juveniles might be compromised, as contracted training companies could face challenges obtaining insurance for helmet-exempt courses. The potential for civil litigation arises from disagreements over helmet approvals, with potential lawsuit costs reaching up to $1 million per case. Additionally, waiving federal regulations could expose CHP to lawsuits for injuries or fatalities, with typical wrongful death lawsuit amounts ranging from $600,000 to $2 million.

SUPPORT: (Verified 9/11/23)

Jakara Movement
Legendary Sikh Riders
Sikh Legends of America
Sikhead Saints Motorcycle Club
1 private citizen

OPPOSITION: (Verified 9/11/23)

Auto Club of Southern California
California Coalition for Children's Safety and Health
Children's Advocacy Institute, University of San Diego School of Law
County Health Executives Association of California

ARGUMENTS IN SUPPORT: According to Jakara Movement,

“Our organization seeks to empower, educate, and organize Punjabi Sikhs and other marginalized communities. Calfifornia is home to half of the Sikhs in the U.S. — an estimated quarter million people. Sikhism is a monotheistic faith with origins in 15th century India whose followers are best recognized by the uncut hair and turbans many men wear. At Sikh Gurdwaras (places of worship) in Sacramento, Fresno, Bakersfield, and Riverside, many Sikhs are motorcycle enthusiasts and seek to continue their privilege to ride as well as respecting their freedom of religion in a way that supports safety. After a thorough dialogue with

many of our motorcyclist members, we strongly urge you to support the bill by voting YES on SB 847. From our conversations, we have synthesized that motorcyclists wish to remain safe, enjoy the privilege of riding a motorcycle and respect their freedom of religion. The Jakara Movement and our Sikh constituents support SB 847. We hope you will reflect the wishes of the 250,000+ Punjabi Sikh community and help safeguard California's roads while respecting their freedom of religious expression"

ARGUMENTS IN OPPOSITION: According to the California Coalition for Children's Safety and Health,

"The bill currently now opens an unintended loophole in California's motorcycle law allowing for – unlike the Sikh community's issues - "creative" definitions of religious reasons for not complying with the long-standing traffic safety law to protect motorcycle riders from severe head injury. The cost to California's taxpayers will end up holding the purse strings and will have to pay for increased millions of dollars of healthcare costs associated with a higher number of motorcycle crash head injuries. "

"Another unintended consequence would be increased costs to law enforcement and local government involving the confusion such a proposal would create for traffic safety officers and local traffic courts. Anytime there are safety laws only applicable to some rather than to all will increase traffic safety enforcement complications and more contested enforcement stops at the scene or being adjudicated in local traffic court settings."

Prepared by: Jacob O'Connor / TRANS. / (916) 651-4121
9/13/23 20:52:56

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

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

UNFINISHED BUSINESS

Bill No: SB 848
Author: Rubio (D), et al.
Amended: 6/28/23
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/19/23
AYES: Cortese, Wilk, Durazo, Laird, Smallwood-Cuevas

SENATE JUDICIARY COMMITTEE: 9-1, 4/25/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Wiener
NOES: Niello
NO VOTE RECORDED: Stern

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 35-3, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NOES: Jones, Niello, Seyarto
NO VOTE RECORDED: Nguyen, Ochoa Bogh

ASSEMBLY FLOOR: Not available

SUBJECT: Employment: leave for reproductive loss

SOURCE: Forever Footprints
Junior Leagues of California State Public Affairs Committee

DIGEST: This bill requires employers, of five or more employees, to provide eligible employees with up to five days of reproductive loss leave following a reproductive loss event defined as a failed adoption, failed surrogacy, miscarriage, stillbirth or an unsuccessful assisted reproduction.

Assembly Amendments define a "reproductive loss event"; specify that if, prior to or immediately following a reproductive loss event, an employee is on or chooses to go on leave from work using other existing leave entitlements, then the employee shall complete their reproductive loss leave within three months of the end date of the other leave; and make other non-substantive format changes.

ANALYSIS:

Existing law:

1) Makes it an unlawful employment practice, under the California Family Rights Act (CFRA), for an employer to refuse to grant a request by a qualified employee to take up to 12 workweeks in any 12-month period for family care and medical leave. Defines "family care and medical leave" for this provision to mean taking leave to care for a new child; to care for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner who has a serious health condition; or to take leave because of the employee's own serious health condition, as specified. (Gov. Code § 12945.2.)

2) Makes it an unlawful employment practice for an employer to refuse to hire, or to discharge, fine, suspend, expel, or discriminate against, any individual because, among other things, an individual's exercise of the right to family care and medical leave. (Gov. Code § 12945.2)

3) Grants, under the Healthy Workplaces, Healthy Families Act of 2014, eligible employees, as specified, the right to paid sick days of up to 24 hours or three days in one year. Provides that employees covered by qualifying collective bargaining agreements, In-Home Supportive Services providers, and certain employees of air carriers are not covered by this law. (Labor Code §245-249)

4) Protects employee rights to use accrued sick days by specifying that an employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an

investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by law. (Labor Code §246.5)

5) Makes it an unlawful employment practice, under bereavement leave provisions, for an employer to refuse to grant a request by any employee to take up to five days of bereavement leave upon the death of specified family members. Allows that the leave need not be consecutive and must be completed within three months of the date of the death of the family member. Provides that the bereavement leave shall be taken pursuant to any existing bereavement leave policy of the employer and, if none exists, the bereavement leave may be unpaid, except that an employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee. (Government Code §12945.7)

6) Makes it unlawful employment practice for an employer to refuse to hire, or to discharge, demote, fine, suspend, expel, or discriminate against, an individual because of either of the following:

   a) An individual's exercise of the right to bereavement leave provided.

   b) An individual's giving information or testimony as to their own bereavement leave, or another person's bereavement leave, in an inquiry or proceeding related to rights guaranteed under this section. (Government Code §12945.7)

7) Makes, under Pregnancy Disability Leave (PDL), it an unlawful employment practice for an employer to refuse to allow an employee disabled by pregnancy, childbirth, or a related medical condition to take a leave for a reasonable period of time not to exceed four months and thereafter return to work, as specified. The employee shall be entitled to utilize any accrued vacation leave during this period of time. (Government Code §12945)

This bill:

1) Provides, among others, the following definitions:

   a) "Assisted reproduction" means a method of achieving pregnancy through artificial insemination or embryo transfer, including gamete and embryo donation.

   b) "Employee" means a person employed by the employer for at least 30 days prior to the commencement of the leave.

c) "Employer" means either of the following:

i) A person who employs five or more persons, as specified.

ii) The state and any political or civil subdivision of the state, including, but not limited to, cities and counties.

d) "Failed adoption" means the dissolution or breach of an adoption agreement with the birth mother or legal guardian, or an adoption that is not finalized because it is contested by another party. This event applies to a person who would have been a parent of the adoptee if the adoption had been completed.

e) "Failed surrogacy" means the dissolution or breach of a surrogacy agreement, or a failed embryo transfer to the surrogate. This event applies to a person who would have been a parent of a child born as a result of the surrogacy.

f) "Miscarriage" means a miscarriage by a person, by the person's current spouse or domestic partner, or by another individual if the person would have been a parent of a child born as a result of the pregnancy.

g) "Stillbirth" means a stillbirth resulting from a person's pregnancy, the pregnancy of a person's current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy that ended in stillbirth.

h) "Unsuccessful assisted reproduction" means an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure. This event applies to a person, the person's current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy.

i) "Reproductive loss event" means the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction.

2) Makes it an unlawful employment practice for an employer to refuse to grant a request by any employee to take up to five days of reproductive loss leave following a reproductive loss event.

3) Provides that if an employee experiences more than one reproductive loss event within a 12-month period, an employer shall not be obligated to grant a

total amount of reproductive loss leave time in excess of 20 days within that period.

4) Requires the employer to allow the days an employee takes for reproductive loss leave to be nonconsecutive and to be completed within three months of the event entitling the employee to that leave.

5) Provides that, if, prior to or immediately following a reproductive loss event, an employee is on or chooses to go on leave from work pursuant to California's existing Pregnancy Disability Leave or California Family Rights Act, or any other leave entitlement under state or federal law, the employee shall complete their reproductive loss leave within three months of the end date of the other leave.

6) Provides that reproductive loss leave shall be taken pursuant to any existing applicable leave policy of the employer and, if none exists, reproductive loss leave may be unpaid, except that an employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee.

7) Makes it an unlawful employment practice for an employer to retaliate against an individual, including, but not limited to, refusing to hire, discharging, demoting, fining, suspending, expelling, or discriminating against, an individual because of either of the following:

   a) An individual's exercise of the right to reproductive loss leave.

   b) An individual's giving information or testimony as to their own reproductive loss leave, or another person's reproductive loss leave, in an inquiry or proceeding related to rights guaranteed under this section.

8) Makes it an unlawful employment practice for an employer to interfere with, restrain, or deny the exercise of, or attempt to exercise, any right provided under these provisions.

9) Requires the employer to maintain the confidentiality of any employee requesting leave under these provisions. Requires that any information provided to the employer shall be maintained as confidential and shall not be disclosed except to internal personnel or counsel, as necessary, or as required by law.

10) Provides that an employee's right to reproductive loss leave shall be construed as a separate and distinct right from any right under this part.

Background

California employees may be entitled to several medical leaves depending on the size of their employer and the reason for the leave. Of particular note, the CFRA allows employees, of employers with five or more employees, to take up to 12 weeks of family leave to care for a newborn child or to care for family members suffering from a serious medical condition. In addition, California's PDL, requires covered employers to provide employees disabled by pregnancy, childbirth, or a related medical condition with unpaid, job-protected leave and/or accommodations. PDL is available when an employee is actually disabled. This includes time off needed for prenatal or postnatal care, severe morning sickness, doctor-ordered bed rest, childbirth, recovery from childbirth, loss or end of pregnancy, or any other related medical condition.

Existing law also requires covered employers to grant eligible employees' request for up to five days of bereavement leave upon the death of certain family members. Although these leaves exist, and loss of a child may be somewhat covered by one of them, nothing specifically addresses the complexities and difficulties that a worker undergoing reproductive assistance endures.

Comments

Need for this bill? According to the author, "Reproductive loss is one of the most traumatizing events a person can experience, and unfortunately, it is far too common. Approximately half of all pregnancies end in miscarriage, and up to 15 percent of known pregnancies end in the traumatizing event of miscarriage or stillbirth. Existing family leave programs don't fully apply to parents experiencing reproductive loss. Bereavement Leave does not include instances of stillbirth, miscarriage, fertility, or adoption loss events suffered by millions of families. Additionally, PDL only applies to the parent physically carrying a child to term and does not provide leave time to the other parent.

"Several states have recently passed legislation to provide leave for reproductive loss events, including Utah and Illinois in 2022. Local governments such as Pittsburgh, Pennsylvania and Boston, Massachusetts also provide their employees with leave for pregnancy loss. Additionally, many private employers currently provide leave for reproductive loss, including Liberty Mutual Insurance and Altria."

Related/Prior Legislation

AB 1949 (Low, Chapter 767, Statutes of 2022) provided specified California workers with up to five days of job-protected leave from work to grieve and to attend to logistical matters in the event of the death of a close family member, as defined.

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

According to the Assembly Appropriations Committee:

1) Costs of approximately $1.5 million in fiscal year 2024-25 and $1.4 million annually thereafter to the Civil Rights Department (CRD) for 10 additional positions to receive, investigate, mediate, and prosecute complaints (General Fund). CRD anticipates a large, but unknown, number of employees would be entitled to reproductive loss leave, although some employers may already have equivalent policies and not all eligible employees would take such leave if it is unpaid. Absent more specific data, CRD estimates approximately 300 additional complaints annually based on historical data related to Pregnancy Disability Leave and California Family Rights Act (CFRA) leave.

2) Costs of an unknown, but potentially significant, amount to state departments for increased staffing costs by increasing the minimum days available for excluded employees to take reproductive loss leave.

SUPPORT: (Verified 9/13/23)

Forever Footprints (co-source)
Junior Leagues of California State Public Affairs Committee (co-source)
American Society for Reproductive Medicine
California Catholic Conference
California Employment Lawyers Association
California Faculty Association
California Federation of Teachers
California Nurses Association
California Teachers Association
Consumer Attorneys of California
Ella Baker Center for Human Rights
Initiate Justice
Junior League of San Diego
LA Best Babies Network

Legal Aid at Work
NARAL Pro-Choice California
National Association of Social Workers California Chapter
National Council of Jewish Women Los Angeles
Return to Zero: HOPE
STAR Legacy Foundation

OPPOSITION: (Verified 9/13/23)

California Chamber of Commerce

ARGUMENTS IN SUPPORT: According to the sponsors, "Pregnancy and fertility loss is common and is suffered by millions of women across the state, with approximately half of all pregnancies ending in miscarriage. Existing family leave programs are limited in scope and access and do not fully apply to all persons impacted. SB 848 would ensure employees are allowed to take up to five days of reproductive loss leave following a miscarriage, unsuccessful assisted reproduction, failed adoption, failed surrogacy, diagnosis negatively impacting pregnancy, diagnosis negatively impacting fertility, or stillbirth. This would additionally apply to the individual's spouse or domestic partner, or another co-parenting individual, if that individual would have been a parent of a child had they been successful."

ARGUMENTS IN OPPOSITION: The California Chamber of Commerce is opposed unless amended arguing that this bill, "seeks to create a second bereavement leave statute specific to events concerning reproduction and fertility. This new leave right is separate from any other leave provided for in current law. We are understanding of the emotional toll that these events can take on an employee, however, we have concerns about the breadth of the bill. While one more leave may not seem burdensome in isolation, it must be viewed in the context of the more than 20 leaves that currently exist or were mandated during the last few years as a result of the pandemic.

"We are therefore requesting additional amendments to reduce the allowed 20 days of leave in 12 months under the bill. Some of the procedures identified as qualifying events can occur monthly or every few months, which would result in a large quantity of leave being taken at one time. Under the bill, an employee who has three failed procedures within three months would be eligible for 15 days of leave in a matter of three months. The employee could use those fifteen days all at once as the bill allows an employee to take the leave within 90 days of an event

which could be difficult for an employer to accommodate, especially for small businesses."

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

9/13/23 20:52:56

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

SENATE RULES COMMITTEE SB 857
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 857
Author: Laird (D), et al.
Amended: 9/7/23
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 4/12/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas, Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 35-0, 5/15/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Skinner, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Jones, Nguyen, Rubio, Seyarto, Smallwood-Cuevas

ASSEMBLY FLOOR: Not available

SUBJECT: Advisory task force: LGBTQ+ pupil needs

SOURCE: California Association of Student Councils
Equality California

DIGEST: This bill would requires the State Superintendent of Public Instruction (SPI), on or before July 1, 2024, to convene an advisory task force (Task Force) to identify the statewide needs of lesbian, gay, bisexual, transgender, queer, questioning, and plus (LGBTQ+) pupils and report its findings to the Legislature, the SPI, and Governor by January 1, 2026.

Assembly Amendments:

1) Clarify the objectives of the Task Force;

2) Increase the number on the Task Force from 11 to 15 and increase the number of pupils on the taskforce from three to eight; and

3) Make technical changes.

ANALYSIS:

Existing law:

1) Declares it is the policy of the State of California to afford equal rights and opportunities in the educational institutions of the state of to all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes as specified. (Education Code (EC) § 200)

2) Requires the California Department of Education (CDE), as part of its compliance monitoring, to assess whether local educational agencies (LEAs) have provided information to certificated staff serving grades 7-12 on school site and community resources for LGBTQ students. (EC § 234.1 (d))

3) Requires the CDE to monitor LEAs for adoption of policies prohibiting discrimination, harassment, intimidation, and bullying on the basis of sexual orientation, gender, gender identity, or gender expression. (EC § 234.1(a))

4) Requires the CDE to monitor LEAs for adoption of processes for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying, and establishes complaint procedures. (EC § 234.1(b))

This bill:

1) Requires the SPI, on or before July 1, 2024, to convene a Task Force to identify the statewide needs of LGBTQ+ pupils and to assist in implementing supportive policies and initiatives to address LGBTQ+ pupil education, including, but not limited to, all of the following:

   a) Pupil mental health and feelings of safety and support.

   b) Inclusive and safe access to school facilities.

   c) Inclusive instructional material and school curriculum.

   d) Prevention of, response to, and oversight of, bullying and harassment to determine the effectiveness of policies and programs.

e) Inclusive participation in campus activities.

2) Requires the SPI to select 11 members representative of all of the following group with, to the extent practicable, the members representing the geographical, racial, ethnic, socioeconomic, cultural, physical, and educational diversity of California's LGBTQ+ community, and emphasis on identifying at-promise or disadvantaged LGBTQ+ pupils to serve as the high school members of the advisory task force.

   a) Eight pupils identifying as members of the LGBTQ+ community who are enrolled in a California high school;

   b) One school administrator currently employed by a LEA;

   c) Two certificated school teachers currently employed by LEA;

   d) One licensed physician and surgeon, with a preference for one who practices LGBTQ+ affirming care;

   e) Two mental health professionals, with a preference for those who practice LGBTQ+ affirming care;

   f) One community LGBTQ+ advocate, with a preference for one with programmatic expertise; and

   g) One representative from the Office of Health Equity established by the State Department of Public Health.

3) Requires the Task Force, on or before January 1, 2026, to report their findings and recommendations based on the assessment of areas described in 1) to the Legislature, the SPI, and the Governor as specified.

4) Specifies that the report may include minority findings and recommendation, at the request of any member of the Task Force.

Comments

1) *Need for the bill.* According to the author, "Across this nation school campuses have become a battle ground in the fight for LGBTQ+ dignity and humanity. LGBTQ+ students often find themselves caught in the cross fire, lacking the support and resources they need to thrive. A safe and supportive school environment allows LGBTQ+ students to succeed academically and has a significant impact on their overall wellbeing. California continues to lead the nation in supporting LGBTQ+ youth both on and off the campus, through

robust policy projections and budget allocations. However, we still have a long way to go. Many school districts lack the resources needed to implement these laws, face hostile local social climates that impede implementation, and lack awareness regarding existing legal requirements and the best ways to meet them. School district administrators cannot address this issue alone they need the input and expertise of all of those involved in creating a thriving environment for LGBTQ+ youth on school grounds in order to succeed. SB 857 brings students, teachers, and administrators together to ensure that authentic voices from the community are involved in discussions about how to create a safe and supportive environment for LGBTQ+ students, while providing the State Department of Education with valuable perspectives to ensure resources are efficiently allocated to implement existing laws and better support LGBTQ+ student needs."

2) *2021 National School Climate Survey by the Gay, Lesbian & Straight Education Network (GLSEN).* A growing body of research has linked disparities to non-binary students' experiences of violence, harassment, and exclusion in educational settings. LGBTQ+ youth often navigate more hostile school climates than their peers. According to a 2021 National School Climate Survey by the GLSEN, "76.1% of LGBT students were verbally harassed, 31.2% were physically harassed, and 12.5% were physically assaulted due to their sexual orientation." Furthermore, 81.8% of LGBTQ+ students who participated in GLSEN's survey reported feeling unsafe in school because of at least one of their actual or perceived personal characteristics. The relationship between marginalization and mental health in gender minority populations is well documented. In the same survey, over half of LGBTQ+ students (61.6%) reported feeling unsafe in school because of their mental health or emotional disability. Non-binary students' experiences of violence, harassment, and exclusion in educational settings can lead to negative educational experiences, including chronic absenteeism, academic achievement, and school discipline.

3) *CDE: Supporting LBGTQ+ Students.* CDE currently provides instructional guidance, references, and policies on its website to help LEAs and families support their LGBTQ+ students, such as highlighting the Fair, Accurate, Inclusive, and Respectful (FAIR) Education Act, which prescribes inclusion of the contributions of groups previously excluded in the history of California and the U.S. This section once included men and women and numerous ethnic groups; the expanded language requires the inclusion of the contributions of LGBTQ + Americans to California and U.S. history as well as their roles in contemporary society.

The website also includes training offered by the *American Psychological Association* and the *Trevor Project*, resources for schools such as establishing peer support or Affinity Clubs on campus, links to antibias training to support LBGTQ+ youth, and how to create safe spaces for LBGTQ+ students on campus.

CDE also provides its website resources for families and Community organizations by region. For example, LEAs and families in Monterey, Santa Clara, Santa Cruz, and San Benito can be connected to the Billy DeFrank Lesbian and Gay Community Center, PFLAG, Queer Youth Task Force, and Epicenter Monterey. In another instance, LEAs and families in Riverside, Inyo, Mono, and San Bernardino, can find resources to help their students at the Desert AIDS Project, Joshua's Home, Safe Schools, Desert Cities, and TruEvolution.

Moreover, current law requires CDE, as part of its compliance monitoring, to assess whether local schools have provided information to certificated staff serving grades 7-12 on school sites and community resources for LGBTQ students. Current law also requires the CDE to monitor local schools to ensure the adoption of policies prohibiting discrimination, harassment, intimidation, and bullying based on sexual orientation, gender, gender identity, or gender expression.

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

According to the Assembly Appropriations Committee, minor and absorbable General Fund costs to CDE. CDE indicates the requirements of this bill are absorbable within the duties of the recently funded School Health Education Coordinator position at CDE.

SUPPORT: (Verified 9/13/23)

California Association of Student Councils (co-source)
Equality California (co-source)
State Superintendent of Public Instruction Tony Thurmond
ACLU California Action
American Association of University Women - California
APLA Health
Association of California School Administrators
California Charter Schools Association
California Federation of Teachers
California School-Based Health Alliance

California Teachers Association
California Transcends
California Youth Empowerment Network
Citizens for Choice
Dolores Huerta Foundation
Essential Access Health
Gender Spectrum
Jewish Federation of Greater Los Angeles
LGBTQ Center OC
Los Angeles LGBT Center
Los Angeles Unified School District
Mental Health America of California
National Center for Lesbian Rights
Our Family Coalition
Positive Images LGBTQIA+ Center
Radiant Health Centers
San Diego Pride
Santa Clarita Valley Democrats
The Source LGBT+ Center
The Women's Building
Transyouth Liberation
Viet Rainbow of Orange County

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to Equality California, "While states across the country are attacking LGBTQ+ students, particularly transgender and non-binary youth, SB 857 will send a powerful message that California is committed to ensuring that all students have an opportunity to succeed. Every student deserves to have a safe and supportive school environment where they can learn and succeed. Unfortunately, while California has passed a number of laws aimed at protecting LGBTQ+ students, many school districts lack the resources to implement these laws, face hostile local social climates that impede implementation, or lack awareness regarding existing legal requirements and the best ways to meet them. According to Equality California Institute's 2022 Safe and Supportive Schools Report Card, 30% of school districts that responded to the survey had not adopted an anti-bullying policy that explicitly prohibits bullying on the basis of sexual orientation or gender identity. Nearly half (48%) of respondents had not adopted LGBTQ+ inclusive educational materials that are compliant with

the FAIR Education Act. It is critical to properly implement existing laws and policies to build a safe and supportive school climate for LGBTQ+ students. There are also many ways in which school districts can go above and beyond legal requirements in fostering safe and supportive school climates for their LGBTQ+ students and staff. The creation of an LGBTQ+ advisory task force will bring students, teachers, and administrators together to ensure that authentic voices from the community are actively involved in discussions about how to create a safe and supportive environment for LGBTQ+ students, while also providing the CDE with valuable perspectives to ensure that resources are efficiently allocated to implement existing laws and better support LGBTQ+ student needs."

Prepared by: Kordell Hampton / ED. / (916) 651-4105
9/13/23 20:45:19

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

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

UNFINISHED BUSINESS

Bill No: SB 872
Author: Min (D)
Amended: 9/7/23
Vote: 21

SENATE EDUCATION COMMITTEE: 7-0, 4/26/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire, Smallwood-Cuevas, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SENATE FLOOR: 40-0, 5/25/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ASSEMBLY FLOOR: Not available

SUBJECT: Pupil enrollment: class size: report

SOURCE: California Federation of Teachers

DIGEST: This bill requires the California Department of Education (CDE) to publish a report annually on its website on the average class sizes in public schools.

Assembly Amendments:

a) Strike the code references made in relation to enrollment information;

b) Require CDE to capture the class size, rather than number of pupils in transitional kindergarten – grade 12 inclusive;

c) Define “Average class size” to mean the total course enrollment divide by the number of classes; and

d) Make other technical changes.

ANALYSIS:

Existing law:

1) Defines the following terms to administer the provisions of this chapter and the requirements of Education Code Sections 41376 and 41378::

   a) “Class” to mean a group of pupils scheduled to report regularly at a particular time to a specific teacher instead of a grade, a broader segment of the school organization.

   b) “Average number of pupils enrolled per class” to mean grades 1, 2, and 3 is the number obtained by dividing the sum of the quotients derived from the “number of pupils enrolled” for all classes in those grades by the number of those quotients.

   c) “Number of pupils enrolled” to mean a class for kindergarten, and grades 1, 2, or 3 means the sum of the numbers determined by all the active enrollment counts made for the class, divided by the number of such counts made for the class.

   d) “Full-time equivalent classroom teacher” to mean the period of time the duties of a classroom teacher are assigned a classroom teacher equal to the total number of hours designated by a governing board as a regular school day.

   e) “Classroom teacher” to mean an employee of the district in a position requiring certification qualifications whose duties require him to teach in regular day classes in any grade of Grades 4 to 8, inclusive, during the regular school year. (California Code of Regulation § 15103)

2) Requires the Superintendent of Public Instruction (SPI), in computing apportionments and allowances from the State School Fund for the second principal apportionment, to determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes:

a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class.

b) The total number of pupils in excess of 33 in each class has an enrollment of over 33.

c) The total number of pupils by which the average class size in the district exceeds 31.

d) The greater number of pupils as described in (b) or (c) above.

e) The SPI must compute the product obtained by multiplying the excess number of pupils calculated by 0.97 and decreasing the average daily attendance reported by the resulting product. (Education Code (EC) § 41378)

3) Requires a state school register shall be kept by every teacher in the public elementary schools, except a teacher in:

a) A school in which the state school register of each teacher is kept on behalf of the teacher in a central office by an employee of the school district.

b) A school in which a central file of individual records of pupil enrollment, absence, and attendance is maintained on forms containing at least the minimum items of information prescribed by the CDE and whose principal submits periodic reports of pupil personnel data to the city or district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools on forms approved by the CDE. (EC § 44809 (a))

4) Specifies, for grades 1 to 3, inclusive, the SPI of a local educational agency (LEA) must determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are more than 30 in each class. (EC **§** 41376 (a)(1)(A))

5) Specifies for LEAs that do not have any classes with an enrollment over 32 and whose average size for all the classes is 30 or less, there shall be no excess declare and states LEAs that have one or more classes in a lot of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are more than 30 in each class having an enrollment of more than 30. (EC § 41376 (a)(1)(B))

This bill:

1) Requires the CDE to report and make publically available on its website the "California Raw Class Size Data Report," to include all of the following data*:*

   a) The average class size in each self-contained and departmentalized class for each school site in every LEA from transitional kindergarten through all elementary school grades.

   b) The average class size in each self-contained and departmentalized class for each school site in every LEA for each middle school grade.

   c) The average class size in each self-contained and departmentalized class for each school site in every LEA for each high school grade.

2) Adds findings and declarations related to the Teaching and Learning International Survey (TALIS) and inaccurate class size data.

3) Defines "Average class size" to mean the total course enrollment divide by the number of classes.

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

According to the Assembly Appropriations Committee, ongoing General Fund costs of $142,000 to CDE for one position to collect and annually report data, as required by this bill. Minor ongoing Proposition 98 General Fund costs to each of California's more than 1,000 LEAs to annually report data from their more than 13,000 schools SARCs to CDE. Upfront costs will be higher to LEAs as they transition to the new requirement. If the Commission on State Mandates determines the bill's requirements to be a reimbursable state mandate, the state would need to reimburse these costs to LEAs or provide funding through the K-12 Mandate Block Grant.

SUPPORT: (Verified 9/13/23)

California Federation of Teachers (source)
California Teachers Association
Los Angeles County Office of Education
Support Public Housing California

OPPOSITION: (Verified 9/13/23)

None received

ARGUMENTS IN SUPPORT: According to the California Federation of Teachers, "Currently, class size ratios have been reported on the Ed-Data.org website, and the California Department of Education DataQuest website. Unfortunately, numbers reported for student-teacher ratios on Ed-Data reflect a formula that incorporates all certificated staff located on campus. This means that librarians, counselors, and administrative staff such as Principals are included in the denominator of the formula and present a skewed number that is lower than reality. Having increased numbers of students in every classroom places immense strain on the capacity of educators in our system to create the required lesson plans, direct instruction, review homework assignments and testing, and provide beneficial one-on-one instruction to assist struggling students. High class sizes lead to less time in their schedules for planning, collaboration, and professional development, as well as limited ability to provide tailored high-quality instruction to each student. In short, high class sizes lead to educator burnout, and lower student achievement. Without access to real class size data that is up to date, California will be unable to properly address the problem presented by large class sizes."

Prepared by: Kordell Hampton / ED. / (916) 651-4105
9/13/23 20:45:20

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

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

UNFINISHED BUSINESS

Bill No: SB 890
Author: Committee on Governance and Finance
Amended: 9/6/23
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 8-0, 4/26/23
AYES: Caballero, Seyarto, Blakespear, Dahle, Durazo, Glazer, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 39-0, 5/11/23 (Consent)
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Grove

ASSEMBLY FLOOR: 80-0, 9/11/23 - See last page for vote

SUBJECT: Property taxation: change of ownership and base year value transfers

SOURCE: State Board of Equalization

DIGEST: This bill changes four sections of the Revenue and Taxation Code to update cross references

Assembly Amendments correct a cross reference and a grammatical error.

ANALYSIS:

Existing law:

1) Limits the maximum amount of any ad valorem tax on real property at 1% of full cash value, and directs assessors to only reappraise property thereafter if

there is a change in ownership (California Constitution Article XIIIA, Section One).

2) Provides an exception to change in ownership reassessment to allow certain taxpayers to transfer base year values, which allow a taxpayer to continue to pay property taxes at the factored base year value of their previous home (or other property types where the law allows) and not on the value of their newly purchased or constructed home (California Constitution, Article XIIIA, Section Two).

3) Exempted, prior to enactment of Proposition 19, from change in ownership transfers of property from parents to children (ACA 2, Hanigan), which voters extended to grandchildren ten years later, so long as the grandparent is deceased (Proposition 193, 1996; ACA 17, Knowles). These exclusions applied to all inherited primary residences, regardless of value or number of transfers. They also applied to up to $1 million in aggregate value of all other types of property, such as second homes or business properties.

4) Enacts the Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act (ACA 11, Mullin; Proposition 19, 2020), which:

   a) Allowed for base year value transfers for disabled taxpayers and those over the age of 55, as well as a victim of a wildfire or other natural disaster, to properties of greater value and across county lines regardless of whether the accepting county enacted an ordinance, so long as the replacement property is purchased or constructed within two years of the date the original property is sold, or damaged or destroyed by a disaster.

   b) Limited the parent-child and grandparent-grandchild exclusion from change in ownership of a principal residence only if the property continues as the primary residence of the transferee, and repealed the parent-child, grandparent-grandchild exclusion for up to $1 million in aggregate value of all other types of property that is not the principal residence entirely.

5) Implements Proposition 19 in statute by creating two new sections of the Revenue and Taxation Code (SB 539, Hertzberg, Chapter 427, Statutes of 2021), one each for base year value transfers and limits to the change in ownership exclusion for intergenerational transfers.

6) Excludes a transfer of a mobilehome park to an entity formed by the tenants of the park provided that the individual tenants who were renting at least 51

percent of the spaces in the mobilehome park prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park.

7) States, once a transfer of a mobilehome park to an entity formed by tenants has been excluded from change in ownership pursuant to the section, that any subsequent transfers of ownership interests in that entity are treated as pro rata changes in ownership and are subject to reassessment unless another change in ownership exclusion in current law applies.

8) Provides similar treatment to owners of property in floating home marinas as existing law does for mobile home parks.

9) Directs assessors to determine a new base year value of qualified contaminated property upon change in ownership unless a different base year value transfer applies.

This bill:

1) Adds references to SB 539's new section implementing Proposition 19's modified intergenerational transfers into sections of law directing assessors to treat subsequent transfers of ownership interests following a tenant acquisition in a mobile home parks or floating home marina treating them as pro rata changes in ownership, and subject to reassessment unless another transfer applies.

2) Adds a reference to SB 539's new base year value transfer section into a section of law directing assessors to determine a new base year value of the property upon change in ownership unless a different base year value transfer applies.

3) Correct a cross reference and grammatical error in SB 539's base year value transfer section.

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

According to the Assembly Appropriations Committee:

- BOE estimates no revenue impact or state costs as a result of this bill, as this bill solely provides technical changes to reflect the passage of Proposition 19 (2020) and implementing legislation. Thus, any resulting state-mandated local program or lost property tax revenues stem from those prior measures.

SUPPORT: (Verified 9/11/23)

State Board of Equalization (source)

OPPOSITION: (Verified 9/11/23)

None received

ARGUMENTS IN SUPPORT: According to the Committee, "Recently, the BOE identified changes in law necessary to conform to the Legislature's enactment of SB 539 (Hertzberg). This bill adds cross-references to the sections added by SB 539 into existing laws to help assessors and BOE more uniformly administer property tax law."

ASSEMBLY FLOOR: 80-0, 9/11/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
9/11/23 19:44:46

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

SENATE RULES COMMITTEE SCA 1
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCA 1
Author: Newman (D), et al.
Introduced: 1/30/23
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 6-1, 5/8/23
AYES: Glazer, Allen, McGuire, Menjivar, Newman, Umberg
NOES: Nguyen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/1/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SUBJECT: Elections: recall of state officers

SOURCE: Secretary of State Shirley N. Weber, Ph.D
California Common Cause
League of Women Voters of California

DIGEST: This constitutional amendment, if approved by voters, eliminates the successor election for a recalled state officer and provides, in the event an officer is removed in a recall election, that the office will remain vacant until it is filled in accordance with existing law. This constitutional amendment also repeals the prohibition against the officer subject to the recall from being a candidate to fill the office in a special election, but prohibits the appointment of the officer subject to the recall election to fill the vacancy.

ANALYSIS:

Existing law:

1) States, pursuant to the California Constitution, that the recall is the power of the voters to remove an elective officer.

2) Provides that a recall of a state officer is initiated by delivering to the Secretary of State (SOS) a petition alleging reason for recall. Provides that sufficiency of reason is not reviewable.

3) Provides that proponents have 160 days to file signed petitions. Provides that a petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of five counties equal in number to one percent of the last vote for the office in the county. Requires that signatures to recall Senators, members of the Assembly, members of the Board of Equalization, and judges of courts of appeal and trial courts equal 20 percent of the last vote for the office. Requires the SOS maintain a continuous count of the signatures certified to that office.

4) Provides that an election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures. Provides that a recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equals at least 50 percent of all the voters eligible to vote at the recall election.

5) Provides that if the majority vote on the question is to recall, then the officer is removed. Provides that if there is a candidate who receives a plurality, they are the successor. Prohibits the targeted state officer from being a successor candidate. Prohibits a successor candidacy for a judicial vacancy if the judge is recalled, as specified.

6) Requires the Legislature to provide for circulation, filing, certification of petitions, nomination of candidates, and the recall election.

7) Provides that if a recall of the Governor or SOS is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively.

8) Provides that a state officer who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred.

Prohibits another recall from being initiated against the officer until six months after the election.

9) Requires the Legislature to provide for the recall of local officers unless a county or city provides for recall within their respective charters.

10) Requires a local recall election to include only the question of whether the local elected officer should be removed from office, as specified. Prohibits the successor election for a local office from occurring at the same time as the recall election of a local elected officer, and requires the office, if a local officer is recalled, to become vacant until the position is filled according to existing law.

This constitutional amendment:

1) Eliminates the successor election for a recalled state officer and would provide, in the event an officer is removed in a recall election, that the office will remain vacant until it is filled in accordance with existing law. Repeals the prohibition against the officer subject to the recall from being a candidate to fill the office in a special election, but prohibits the appointment of the officer subject to the recall election to fill the vacancy.

2) Provides that if a recall of the Governor is initiated, the recall duties of that office shall be performed by the SOS instead of the Lieutenant Governor. Provides that if recalls of the Governor and SOS are initiated at the same time, the recall duties of both offices shall be performed by the Controller.

3) Requires, notwithstanding a specified section in the California Constitution, the Lieutenant Governor become Governor for the remainder of the unexpired term that if the Governor is removed from office by recall. Provides that if the Governor is removed from office by recall before the close of the nomination period for the next statewide election during the first two years of the Governor's term, a special election shall be called to replace the Governor, be consolidated with the statewide primary election, and, if necessary, the subsequent statewide general election. Provides that if a candidate receives a majority of the votes in the special election that is consolidated with the statewide primary election, that candidate shall become Governor for the remainder of the unexpired term. Provides that if no candidate receives a majority of the votes, the top two vote-getters shall compete in a special election consolidated with the subsequent statewide general election, and the

winner of that election shall become Governor for the remainder of the unexpired term.

4) Makes corresponding formatting changes.

Background

Informational Recall Hearings. During the 2021-22 legislative session, the Assembly Committee on Elections and the Senate Elections and Constitutional Amendments Committee held a series of joint informational hearings to review California's recall process following the previous gubernatorial recall election.

At the first hearing on October 28, 2021, the committees heard from current and former elected officials, elections experts, and academics about their perspectives on the state's recall process and different reform proposals, including increasing the number of signatures for qualifying a statewide recall and changing the method for selecting the successor to a recalled official.

At the second hearing on December 6, 2021, the committees heard from two panels of expert witnesses. The first panel of academics examined a limitation used in several states which only allows recalls to be initiated against an official for certain enumerated causes. The second panel of experts and local elected officials discussed the use of the recall at the local level, along with potential options for reform.

At the third and final recall informational hearing on February 1, 2022, the committees heard from the SOS who shared recommendations for improvements on the state recall process based on her consultation with outside experts and stakeholders. The committees also received an overview from Dr. Mark Baldassare, President and Chief Executive Officer of the Public Policy Institute of California (PPIC), regarding its January 2022 statewide survey in which the PPIC asked Californians about their views on the recall process. Dr. Baldassare presented new data from their statewide survey and discussed whether and how the views of California voters about the recall process have changed since statewide surveys that PPIC conducted in July and November of last year.

One of the major takeaways from the committee's first two hearings was that many of the recall reform proposals would require voter approval in order to take effect. In particular, proposals to make significant structural changes to the recall process at the state level generally require an amendment to the California Constitution. By contrast, changes to the process for recalling local elected officials and certain

procedural changes to the state process can be made through statutory changes alone. The third hearing generally reinforced the importance of continuing to evaluate California's recall processes and that California voters generally support reform of the recall process, but are against any changes to the recall procedure or process that diminish or decrease the voter's power to recall an elected official.

Recent Changes to Local Recall Elections. In 2022, the Legislature passed and Governor Newsom signed AB 2582 (Bennett, Chapter 790, Statutes of 2022). AB 2582 made changes to the two-question process for the recall of local officers in jurisdictions that do not have a charter providing for recall. Specifically, AB 2582 removed the successor candidate question from the recall question, so that the election for a local officer only includes the question of whether the officer sought to be recalled shall be removed from office.

History of Recall Elections. According to the SOS, since 1913 there have been 179 recall attempts of state elected officials in California (trial court judges are considered local officials for the purposes of state statutes governing recalls and are not included in these figures). Eleven recall efforts collected enough signatures to qualify for the ballot. Of the 11 recall elections, the elected official was recalled in six instances. Below is a list of recall attempts of state officials that have qualified for the ballot and the outcome of the election:

Year	Officer	Outcome
1913	Senator Marshall Black	Recalled
1913	Senator Edwin E. Grant	Recalled
1914	Senator James C. Owens	Unsuccessful
1994	Senator David Roberti	Unsuccessful
1994	Assemblymember Michael Machado	Unsuccessful
1994	Assemblymember Paul Horcher	Recalled
1995	Assemblymember Doris Allen	Recalled
2003	Governor Gray Davis	Recalled
2007	Senator Jeffrey Denham	Unsuccessful
2018	Senator Josh Newman	Recalled
2021	Governor Gavin Newsom	Unsuccessful

Little Hoover Commission. The Little Hoover Commission (LHC) launched a study in 2021 to consider whether the state's system for recalling state office-holders should be changed, and if so, how. The study resulted in its 2022 report, "Reforming the Recall." In the report, the LHC concluded that the recall system should be retained, both because it is substantively valuable – voters should be able

to fire an elected official mid-term – and because it is overwhelmingly popular with voters. However, the report also concluded that substantial changes are needed in California's recall process.

According to the report, current recall procedures breed the possibility of an undemocratic outcome since they allow a replacement candidate to win office while receiving fewer votes than the incumbent. There is also concern that the recall is subject to potential overuse or abuse. The report made various recommendations, including replacing the existing two-part recall ballot with a "snap" special election in which the official targeted for recall is placed on the ballot with all replacement candidates.

Comments

According to the author, California's recall provisions were conceived of and enacted more than 110 years ago. Obviously, the world has changed quite a bit since then, and sadly, politics is no exception. The system in its current form offers bad actors an incentive to target an elected official with whom they disagree and to have the official replaced by someone who otherwise would not enjoy the support of a majority of voters. SCA 1 will ensure that statewide and legislative recalls in California are democratic, fair, and not subject to political gamesmanship. This constitutional amendment will adjust how state-level recall elections are conducted, so that only one question will appear on a recall ballot, asking a voter to decide whether or not an elected official should be recalled from office. If a recall is successful, the official will be replaced in the manner consistent with existing law if the official were to leave office for any other reason.

Related/Prior Legislation

AB 2582 (Bennett, Chapter 790, Statutes of 2022) changed the two-question process for the recall of local officers in jurisdictions that do not have a charter providing for recall by removing the successor candidate question from the recall question, so that the election for a local officer to only include the question of whether the officer sought to be recalled shall be removed from office and, if successful, if filled by existing laws for vacated offices.

AB 2584 (Berman, Chapter 791, Statutes of 2022) increased the total number of proponents required to be included on a notice of intention to recall an elected officer, established a public display period for local recall petitions, authorized a voter to seek a writ of mandate or injunction requiring any or all of the statement of the proponents or answer of the officer to be amended or deleted on a recall

petition, required a petition for the recall of a school board member to contain a fiscal estimate of the cost for conducting the recall election, and changed the timeframe for when a qualified local recall election is held.

SCA 3 (Allen, 2022) would have eliminated the first question on the recall ballot that asks whether a state official should be recalled, and instead automatically places the incumbent's name on the recall ballot along with any potential replacement candidates running for the office. If the incumbent receives a plurality of the vote, the recall fails, and if a replacement candidate receives a plurality, the recall succeeds and that candidate is elected. SCA 3 was referred to the Senate Elections and Constitutional Amendment Committee, but was not heard.

SCA 6 (Newman, 2022), substantially similar to this measure, would have eliminated the second question on the recall ballot that asks which candidate should replace the recalled official, and instead generally requires the office, if the state officer is recalled, to become vacant and to be filled in accordance with existing law. SCA 6 was referred to the Senate Elections and Constitutional Amendment Committee, but was not heard.

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

SUPPORT: (Verified 9/1/23)

Secretary of State Shirley N. Weber, Ph.D (co-source)
California Common Cause (co-source)
League of Women Voters of California (co-source)
Lieutenant Governor Eleni Kounalakis
Indivisible CA: StateStrong

OPPOSITION: (Verified 9/1/23)

Election Integrity Project California, Inc.
Seven Individuals

ARGUMENTS IN SUPPORT: In a letter co-sponsoring SCA 1, the League of Women Voters and California Common Cause stated, in part, the following:

> The League of Women Voters of California and California Common Cause are co-sponsoring the constitutional amendment proposed by SCA 1 because it would retain access to the recall, but in a way that should ensure recall outcomes are democratic and broadly supported and will help to eliminate recalls that are frivolous or degrade democratic legitimacy.

ARGUMENTS IN OPPOSITION: In a letter opposing SCA 1, Election Integrity Project California, Inc., stated, in part, the following:

> The proposal of SCA 1 that the Lieutenant Governor simply assume the governorship in the event of a successful recall would make a gubernatorial recall effort a "frying pan vs the fire" situation, and monumentally suppress not only the people's right to self-govern but their eagerness to participate in government at all.
>
> Every step should be taken to encourage full participation of all eligible voters in making the decisions and choices that affect their lives and keep our Republic not only strong but also responsive to its constituents. SCA 1 is definitely a step in the wrong direction.
>
> The current system of having a ballot with both a YES or NO choice regarding recall and a slate of potential replacements to select from in the event the recall is successful is effective, streamlined, fiscally responsible and fair to the voters.

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/2/23 16:58:32

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

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

THIRD READING

Bill No: SCA 2
Author: Stern (D), et al.
Amended: 4/25/23
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 5/8/23
AYES: Glazer, Allen, McGuire, Menjivar
NOES: Nguyen
NO VOTE RECORDED: Newman, Umberg

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/1/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SUBJECT: Elections: voter qualifications

SOURCE: California Association of Student Councils
Generation Up, Inc.
PowerCA Action

DIGEST: This constitutional amendment, if approved by voters, lowers the voting age from 18 years of age to 17 years of age.

ANALYSIS:

Existing law:

1) Provides, pursuant to Twenty Sixth Amendment to the United States (US) Constitution that, "The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any state on account of age."

2) Permits a person who is a US citizen, a resident of California, not in prison for the conviction of a felony, and is at least 18 years of age at the time of the next election to register to vote and vote in any local, state, or federal election.

3) Allows a person who is at least 16 years old and otherwise meets all voter eligibility requirements to preregister to vote. Provides that the registration will be deemed effective as soon as the affiant is 18 years old at the time of the next election.

4) Requires every constitutional amendment, bond measure, or other legislative measure submitted to the people by the Legislature appear on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature.

This constitutional amendment lowers the voting age from 18 years of age to 17 years of age, subject to voter approval.

Background

Consistent with United States Constitution. The Twenty Sixth Amendment to the US Constitution states, "The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any state on account of age." Additionally, Article II, Section 2 of the California Constitution states, "A United States citizen 18 years of age and resident in this State may vote." Since the US Constitution only addresses abridging the right to vote and this measure expands voting rights, there does not appear to be a conflict with the federal constitution. In an opinion dated April 12, 2004, the Legislative Counsel opined that an amendment to the California Constitution to permit a person under the age of 18 to vote would not violate federal law.

Proposition 18 of 2020. In 2020, ACA 4 (Mullin, Resolution Chapter 30, Statutes of 2020), would have, if approved by voters, permitted a US citizen who is 17 years of age, is a resident of the state, and who will be at least 18 years of age at the time of the next general election to vote in any primary or special election that occurs before the next general election in which the citizen would be eligible to vote if at least 18 years of age. This measure appeared as Proposition 18 at the November 3, 2020 statewide general election. The measure was not approved by voters with approximately 56 percent of voters rejecting the measure.

Local Efforts to Lower the Voting Age in California. In 2016, voters in the City of Berkeley approved a charter amendment that permits the City Council to lower the voting age to 16 years old for school board elections.

Additionally, in 2020, the Oakland City Council voted to submit a ballot measure, which was subsequently approved by voters during the November 3, 2020 general election, to amend the city's charter to authorize the City Council to allow eligible

individuals who are at least 16 years old to vote for the office of School Director by ordinance.

Even though both measures passed, they have yet to be implemented by their respective jurisdictions.

Population Projections. According to population projections compiled by the Department of Finance from July 2021, it was projected that there would be 541,048 residents who are 17 years of age in 2023. It should be noted that these are projections and not actual population totals. Additionally, the actual number of 17-year-olds eligible to register to vote and who actually vote would also be different.

Preregistration Numbers. Under existing law, California permits a person who is at least 16 years old and otherwise meets all voter eligibility requirements to preregister to vote. The individual's registration is deemed effective as soon as the affiant is 18 years old at the time of the next election. According to the Secretary of State, as of February 10, 2023, there were 128,203 preregistered voters. It should be noted that voters who will be 18 years old on Election Day are included in active registration statistics, but remain preregistrants until their 18th birthday.

Other States. Although it appears that no state allows people under the age of 18 to vote in federal general elections, according to information from the National Conference of State Legislatures, at least 18 states (Colorado, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Mississippi, Nebraska, New Mexico, North Carolina, Ohio, South Carolina, Utah, Vermont, Virginia, and West Virginia) and the District of Columbia permit a 17-year-old to vote in a primary election if the voter will turn 18 by the time of the general election. In some other states, 17-year-olds are allowed to participate in presidential caucuses if they will be 18 by the date of the general election, though the eligibility requirements for participating in a presidential caucus generally is determined by the political party conducting the caucus.

In Maryland, Takoma Park, Greenbelt, Hyattsville, Riverdale Park, and Mount Rainier allow 16- and 17-year-olds to vote in municipal elections. Takoma Park first permitted 16- and 17-year-olds to vote in its elections held in 2013, and Hyattsville first allowed 16- and 17-year-olds to vote in its 2015 elections. The city of Greenbelt, Maryland amended its charter in 2018 to allow 16- and 17-year-olds to vote in municipal elections. The first election in Greenbelt with a lower voting age requirement was held in November 2019.

Report from the Berkeley Institute for Young Americans. In April of 2023, the Berkeley Institute for Young Americans published a policy report about lowering the voting age to 17. The report reviewed research evidence, California's historical context, and the predicted turnout rates for 17-year-olds. The report concluded that if the voting age were lowered to 17, estimates showed that between 20-27 percent of all 17-year-olds in California would have participated in the 2018 midterm election, and between 26-46 percent of all 17-year-olds would have participated in the 2020 general election. It should be noted that this data depends on estimates from the Cooperative Election Study and the Current Population Survey. In addition, these turnout estimates do not account for other factors including, but not limited to, the popularity of an election, whether civics education is offered to 17-year-olds, and the newness of the voting age change.

The report also inferred that lowering the voting age has potential to increase turnout rates and establish life-long voting habits, especially if civics education plays an important role. Additionally, perceptions that 16-and 17-year-olds do not have the political maturity or cognitive ability to vote are not supported by developmental science. The report notes that researchers in the field of neuroscience and adolescent development have determined that by age 16 adolescents are capable of mature reasoning and decision-making on a similar footing with the cognitive functioning of adults. As it relates to influence, evidence also showed that youth are no more likely to be influenced by parents or peer networks than older adults. Finally, the report concluded that allowing young people to vote will weaken regulations that currently protect adolescents from special interests during election campaigns, and that changing the voting age will affect other legal definitions of adulthood.

Comments

1) According to the author, currently, in California, young voters have the lowest turnout rate of any age demographic. While this leaves them drastically underrepresented, they are by no means disengaged and uninterested in the political climate, which is currently dominated by issues such as climate change that have a greater effect on them than older voters. This is often because many 18-year-olds are in a time of transition—graduating from high school, going to college, or getting a job. Lowering the voting age to 17 will catch youth at a time when they are still connected to their school, their home, and their community. Converging research demonstrates that voting is habitual, and the earlier in life one votes, the more likely they are to continue voting. In fact, evidence suggests that when younger voters are engaged in the political process, the civic engagement trickles up to influence their parents and their

friends. Democracy is not a spectator sport. And yet, half of our high school seniors are left sitting on the sidelines, learning about government in theory, but unable to cast that crucial first vote in their hometown, where civic habits are built. Lowering the voting age will expand democracy by bringing younger voters into the electoral process, helping them and those around them to establish a lifelong habit of voting.

1) *Age of Majority.* This measure breaks with traditional notions of the age of majority and the responsibilities and privileges that accompany it. For the most part, California law does not allow minors to enter into civil contracts, including marriage, or to be held to the same standards of accountability in criminal matters, except in certain circumstances. With a few limited exceptions (most notably the legal drinking age and the legal smoking age), California confers the legal rights and responsibilities attendant with adulthood on those individuals who are 18 years of age or older.

Related/Prior Legislation

ACA 4 (Mullin, Resolution Chapter 30, Statutes of 2020), would have, if approved by voters, permitted a US citizen who is 17 years of age, is a resident of the state, and who will be at least 18 years of age at the time of the next general election to vote in any primary or special election that occurs before the next general election in which the citizen would be eligible to vote if at least 18 years of age. This was seen as Proposition 18 on the November 3, 2020 ballot where approximately 56 percent of voters rejected the measure. ACA 2 (Mullin) of 2015, ACA 7 (Mullin) of 2013, ACA 2 (Furutani) of 2009, ACA 17 (Mullin) of 2005, and ACA 25 (Mullin) of 2004, all were similar to ACA 4. All of these measures were approved by the Assembly Elections & Redistricting Committee (or, in the case of ACA 25 of 2004, the Assembly Elections, Redistricting, and Constitutional Amendments Committee), but none of the measures passed off the Assembly Floor.

ACA 8 (Low) of 2020, would have lowered the voting age to 17 years olds. ACA 8 was referred to this committee, but was not heard. Similarly, ACA 10 (Low) of 2017 proposed lowering the voting age to 17. ACA 10 failed passage on the Assembly Floor.

ACA 7 (Gonzalez) of 2016 would have permitted 16- and 17-year-olds to vote in school and community college district governing board elections, as specified. A vote was not taken when the measure was heard in the Assembly Committee on Elections and Redistricting.

AB 2517 (Thurmond) of 2016 would have allowed a charter city to permit 16- and 17- year-olds to vote in school district elections if those elections are governed by the city's charter, as specified. A vote was not taken when the bill was heard in the Assembly Committee on Elections and Redistricting.

SB 113 (Jackson, Chapter 619, Statutes of 2014) expanded preregistration by authorizing a 16-year-old to preregister to vote, provided the person meets all other eligibility requirements.

AB 30 (Price, Chapter 364, Statutes of 2009) allowed a person who is 17 years of age to preregister to vote, provided he or she would otherwise meet all eligibility requirements.

SCA 19 (Vasconcellos) of 2004 initially proposed to lower the voting age to 14 years, with votes by 14- and 15-year-olds counting as one-quarter of a vote, and votes by 16- and 17-year-olds counting as one-half of a vote. SCA 19 subsequently was amended instead to lower the voting age to 16, with all votes counting equally as a single vote. SCA 19 failed passage in the Senate Appropriations Committee.

ACA 23 (Speier) of 1995 proposed lowering the voting age to 14, but was never set for a hearing in the Assembly Elections, Reapportionment, and Constitutional Amendments Committee.

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

SUPPORT: (Verified 9/1/23)

ACLU California Action
California Environmental Voters
California Nurses Association/National Nurses United
Center for Information and Research on Civic Learning and Engagement
Fresno County Democratic Party
Generation Citizen
Initiate Justice Action
League of Women Voters of California
Peace and Freedom Party of California
Silicon Valley Young Democrats
Vote16 Culver City
Young Invincibles
One Individual

OPPOSITION: (Verified 9/1/23)

Alameda County Taxpayers' Association, Inc.
Election Integrity Project California, Inc.
Three Individuals

ARGUMENTS IN SUPPORT: In a letter sponsoring SCA 2, the California Association of Student Councils stated, in part, the following:

> Research has shown that the earlier in life one votes, the more likely they are to continue voting. Furthermore, a robust body of evidence demonstrates that 16- and 17-year-olds have the necessary cognitive skills and civic knowledge to vote responsibly. As a result, there has been a nationwide movement to engage youth earlier in the electoral process. California, along with ten other states, allow 16-year-olds to pre-register to vote. California's pre-registration program began in 2016, and as of 2020, more than 500,000 California teens have taken advantage of the preregistration program.
>
> Research demonstrates that voting is habitual—if someone votes in the first election for which they are eligible, they are far more likely to continue voting throughout their lifetimes. Furthermore, when younger voters participate in the political process, this civic engagement is more likely to trickle up and influence their friends and families. Lowering the voting age not only will bring younger voters into the electoral process, but will also have positive impacts on those around them.

ARGUMENTS IN OPPOSITION: In a letter opposing SCA 2, Election Integrity Project California, Inc., provided the following reasons for their position:

a) Anyone who has been 17 and is now ten or more years older knows by personal experience that 17-year-olds do NOT have the maturity or life experience to cast a reasonable, well-researched and considered vote.

b) 17-year-olds are not legally adults.

c) 17-year-olds are captive audiences in school.

d) High school students have little to no real-world experience to inform their voting choices.

e) Political participation is open to all. Voting is different.

Our youth show magnificent potential to manage the future. But let's not blur the line between potential and readiness. Voting is an adult responsibility. 18 is the age of majority. Allowing minors to vote is wrong and could be disastrous.

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/2/23 14:07:45

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

SENATE RULES COMMITTEE SCR 72
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SCR 72
Author: Min (D), et al.
Amended: 8/17/23
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 6/26/23
AYES: Roth, Nguyen, Alvarado-Gil, Archuleta, Ashby, Becker, Dodd, Eggman, Glazer, Niello, Smallwood-Cuevas, Wahab, Wilk

SENATE FLOOR: 39-0, 6/29/23 (Consent)
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Alvarado-Gil

ASSEMBLY FLOOR: 75-0, 8/31/23 (Consent) - See last page for vote

SUBJECT: The 70th anniversary of the Mutual Defense Treaty between the United States and the Republic of Korea

SOURCE: Author

DIGEST: This resolution commemorates the alliance between the United States and the Republic of Korea (U.S.-ROK alliance).

Assembly Amendments make various technical changes.

ANALYSIS:

Existing federal law:

1) Gives the federal government the power to enter into treaties and trade agreements. Federal law requires Congress to approve international agreements. (United States (U.S.) Constitution, Article II)

2) States that treaties and international agreements are laws of the U.S. and as such, are supreme over the laws of the States. (U.S. Constitution Article VI)

3) Establishes, by executive order, the United States Trade Representative (USTR) as an agency within the Executive Office of the President to be responsible for international trade negotiations. (Executive Order 12188)

Existing law:

1) Establishes the Governor's Office of Business and Economic Development (GO-Biz) within the Governor's Office for the purpose of serving as the lead state entity for economic strategy and marketing of California on issues relating to business development, private sector investment and economic growth. (Government Code (GC) §§ 12096 – 12098.5)

2) Specifies that GO-Biz is the primary state agency authorized to attract foreign investments, cooperate in international public infrastructure projects, and support California businesses in accessing markets, and requires the Director of GO-Biz to develop an international trade and investment program attracting employment-producing direct foreign investment to the state and provides support for California businesses in accessing international markets and increasing exports. (GC § 13996.41)

3) Authorizes GO-Biz to establish international trade and investment (ITI) offices outside of the U.S. according to certain requirements. (GC § 13996.42)

4) Establishes the California Foreign Investment Program and states that GO-Biz is the lead state entity for overseeing the state's participation with the United States Citizenship and Immigration Services' EB-5 Investment Program. (GC § 12100.50 et. seq.)

5) Establishes the Commission on Asian and Pacific Islander (APIA) American Affairs and tasks the Commission with advising the Governor, the Legislature, and state agencies, departments, and commissions on issues relating to the social and economic development, and the rights and interests of APIA communities and on how to respond most effectively to the views, needs, and concerns of the state's APIA communities; assisting the state in maintaining effective liaison and outreach with APIA communities in California by, among other means, disseminating information about Asian American resources to the public and engaging in effective outreach with APIA communities; examining issues of access and cultural and language sensitivity by state agencies, departments, and commissions and compile research about APIA communities

relative to the use of state services, including the development and maintenance of data relative to this use; providing assistance to policymakers and state agencies on identifying the needs or problems affecting APIA communities and in developing appropriate responses and programs and; educating the public about hate crimes against APIA communities and other key issue areas identified by the Commission. (GC § 8255 et. seq.)

This resolution:

1) States that the Mutual Defense Treaty between the United States and the Republic of Korea was signed on October 1, 1953 and in 2023, the U.S.-ROK alliance marks 70 years since the cessation of hostilities in the Korean war, the signing of the Korean Armistice Agreement on July 27, 1953, which remains in place today, and that the terms of the agreement have neither formally ended the Korean war, nor constituted a permanent settlement of peace on the Korean Peninsula. States that 2023 also marks 120 years since the first immigration of Koreans to the United States, who later came to America through San Francisco, California.

2) States that the U.S.-ROK alliance is rooted in mutual trust, shared sacrifice, common values, economic interests, and generations of people-to-people ties that provide a foundation for one of the strongest, most robust, and successful alliances in the world. States that the U.S.-ROK alliance was forged in shared sacrifice, with 1,789,000 United States soldiers, sailors, airmen, and marines serving during the Korean war, of whom over 36,000 paid the ultimate sacrifice with their lives in defense of the Republic of Korea, including over 7,000 Korean Augmentation to the United States Army soldiers, and over 7,500 members of the United States Armed Forces remain classified by the United States Department of Defense as missing in action.

3) States that since its founding, the Republic of Korea has become a thriving democracy with a vibrant press and commitment to the rule of law and a free market economy and the Republic of Korea is the sixth largest trading partner of the United States with over $160,000,000,000 in total trade goods and over $30,000,000,000 in total trade services, for more than $194,400,000,000 combined trade during 2021.

4) States that the Republic of Korea is one of the top sources of foreign direct investment for both the United States and California, with Korean companies such as Samsung Electronics, LG Electronics, and SK hynix creating over 13,000 jobs in California in 2021 and the trade volume between the Republic of Korea and California amounted to well over $40 billion in 2022. California

exported over $11 billion to the Republic of Korea, which makes the Republic of Korea the fourth largest export destination of California trade.

5) States that in addition to its longstanding relationship with the United States as a whole, the Republic of Korea has a strong connection to California in particular. California is home to over 800,000 Koreans and Korean Americans that have made significant contributions to every facet of American society and its leadership.

6) States that the cities of San Francisco, California and Seoul, Republic of Korea have been sister cities since 1975, acknowledging the ties between California and the Republic of Korea and encouraging cultural and economic exchanges and California is a host city of the 2023 Asia-Pacific Economic Cooperation Creating Economic Opportunity Summit in November 2023, where the Republic of Korea will participate.

7) Resolves that the Legislature commemorates the 70th anniversary of the U.S.-ROK alliance.

Background

U.S.-ROK Alliance. According to the U.S. Department of State, "Forged during the Korean War and codified in the 1953 Mutual Defense Treaty, the U.S.-ROK Alliance has evolved into a global comprehensive strategic partnership which serves as a linchpin for security and stability in the Indo-Pacific. Over 28,500 U.S. military personnel are stationed in the ROK and work closely with the ROK military and United Nations Command member countries to deter and defend against the threat from the Democratic People's Republic of Korea (DPRK) and maintain the Korean Armistice Agreement. To deter DPRK provocations and attacks, the U.S.-ROK Alliance maintains a strong defensive military posture which includes annual combined exercises, robust military sales, consistent reaffirmations of United States' commitment to the security of the ROK through an enduring combined command structure, and close, consultative relations between U.S. and ROK senior leadership on security issues. The United States supports the ROK's defense modernization efforts through defense sales in order to facilitate the ROK's eventual leadership of the combined defense forces and strengthen its role as a regional security partner. The United States has more than $30 billion in active government-to-government sales cases with the ROK under the Foreign Military Sales system…

The ROK is a significant contributor of troops to United Nations peacekeeping operations, with more than 600 personnel deployed to six missions. In

coordination with the U.S. Global Peace Operations Initiative, the ROK partners with United States Indo-Pacific Command by providing instructors to regional training events and participating in peacekeeping exercises…"

Trade with Korea. According to USTR, The U.S.-Korea Free Trade Agreement entered into force on March 15, 2012 after being signed on June 30, 2007.

U.S. goods and services trade with Korea totaled an estimated $154.9 billion in 2020. Exports were $69.0 billion; imports were $85.9 billion. Korea is currently our 6th largest goods trading partner with $127.2 billion in total (two way) goods trade during 2020. Goods exports totaled $51.2 billion; goods imports totaled $76.0 billion. Trade in services with Korea (exports and imports) totaled an estimated $27.7 billion in 2020. Services exports were $17.8 billion; services imports were $9.8 billion. The U.S. services trade surplus with Korea was $8.0 billion in 2020.

According to the Department of Commerce, U.S. exports of goods and services to Korea supported an estimated 256,000 jobs in 2019.

Korea was the United States' seventh largest goods export market in 2020. U.S. goods exports to Korea in 2020 were $51.2 billion and U.S. exports to Korea account for 3.6 percent of overall U.S. exports in 2020. Korea was the United States' seventh largest supplier of goods imports in 2020 and totaled $76.0 billion in 2020.

Korea's foreign direct investment in the United States (stock) was $61.8 billion in 2019, up 9.2% from 2018. Korea's direct investment in the U.S. is led by wholesale trade, manufacturing, and depository institutions.

Department of Commerce data shows that Korea is California's fifth largest export destination and one of the top exporting states to Korea, making up nearly 16 percent of U.S. exports. In 2022, California exported more than $11.58 billion to Korea. Top products from California to Korea included non-electrical machinery, computers and electronics, transportation equipment, and processed foods. Imports to California from South Korea totaled $31 billion, an increase from the previous year which totaled $26 billion. Top imports were made up of computer and electronic products making up over $13.2 billion of the total, followed by transportation equipment and electrical equipment. According to a 2022 report, Foreign Direct Investment in California, 2022, the 13th largest source of foreign direct investment through foreign-owned enterprises (FOEs) is South Korea. In 2021, South Korean FOEs in California provided 13,021 jobs through 390 firms amounting to $1.289 billion in wages. The top jobs by sector are: information,

transportation/warehousing/utilities, professional/business services, wholesale trade and manufacturing.

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

SUPPORT: (Verified 8/31/23)

None received

OPPOSITION: (Verified 8/31/23)

None received

ASSEMBLY FLOOR: 75-0, 8/31/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McKinnor, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Bryan, Dixon, McCarty, Muratsuchi, Sanchez

Prepared by: Sarah Mason / B., P. & E.D. /
8/31/23 16:18:13

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

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

THIRD READING

Bill No: SCR 87
Author: Dahle (R), et al.
Introduced: 8/15/23
Vote: 21

SUBJECT: Father-Daughter Day

SOURCE: Author

DIGEST: This resolution declares October 8, 2023, as Father-Daughter Day and encourages fathers with daughters in California to take time to celebrate, cherish, and connect with each other.

ANALYSIS: This resolution makes the following legislative findings:

1) We honor mothers and fathers individually with Mother's Day and Father's Day, respectively. A father's bond with his son is often acknowledged and celebrated. Male role models are important not only in a boy's life, but also in a girl's life.

2) American singer-songwriter Smokey Robinson has recognized, "a positive connection between a man and his daughter can have a tremendous impact on a young girl's life and play a big role in her development into a strong, confident woman who knows her value."

3) Young girls depend on their fathers for security and emotional support. A father shows his daughter what a good, healthy relationship with a man is like. If a father is loving, gentle, strong, and valiant, his daughter will relate to and look for those qualities in men.

4) A father sets the bar for the relationships his children will have with others. The way a father treats those around him directly influences the way his children will treat others.

5) Daughters model their relationships with others based on their father's character and relationship with themselves. Involved fathers improve the overall well-being of and increase the likelihood of future success for their children.

6) The second Sunday in October marks Father-Daughter Day to promote the development of young women through their father.

This resolution declares October 8, 2023, as Father-Daughter Day and encourages fathers with daughters in California to take time to celebrate, cherish, and connect with each other.

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

SUPPORT: (Verified 8/21/23)

None received

OPPOSITION: (Verified 8/21/23)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
8/23/23 16:02:18

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

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

THIRD READING

Bill No: AB 50
Author: Wood (D), et al.
Amended: 9/8/23 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 15-0, 7/3/23
AYES: Bradford, Dahle, Ashby, Becker, Durazo, Eggman, Gonzalez, McGuire, Min, Newman, Rubio, Seyarto, Skinner, Stern, Wilk
NO VOTE RECORDED: Caballero, Dodd, Grove

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 67-0, 5/25/23 - See last page for vote

SUBJECT: Public utilities: timely service: customer energization

SOURCE: Author

DIGEST: This bill requires the California Public Utilities Commission (CPUC), by July 1, 2025, to determine the criteria for customers to receive timely electricity service when requesting new service connections or upgraded service, known as "energization." This bill proposes several policies to address delays in connecting customers to the electrical grid, including improved information sharing with local governments, reporting by electric investor-owned utilities (IOUs), and other measures.

Senate Floor Amendments of 9/8/23 provide additional criteria regarding the annual reporting requirements that electric IOUs must report regarding the fulfillment of timely electric service; include various clarifying changes, including clarifying the definition for "energization" and "energize" to align with SB 410 (Becker, 2023); make explicit that the bill does not apply to rural electric cooperatives; and authorizes the CPUC to modify or adjust the requirements in the bill to apply to electric IOUs with fewer than 100,000 service connections,

reflecting the state's three smallest electric IOUs – Pacific Corp., Bear Valley, and Liberty.

ANALYSIS:

Existing law:

1) Establishes and vests the CPUC with regulatory authority over public utilities, including electrical corporations. (California Constitution Article XII)

2) Authorizes the CPUC to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Requires a public utility to furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public. (Public Utilities Code §451)

3) Requires the CPUC to enforce rules governing the extension of service by electrical corporations. (Public Utilities Code §783)

4) Establishes guidelines for the design, cost allocation, and responsibilities of a project applicant and a utility for electric distribution line extensions necessary to furnish permanent electric service. (Electric Tariff Rule 15)

5) Establishes guidelines for the design, cost allocation, and responsibilities of a project applicant and a utility for the extension of electric service from an IOU distribution line. (Electric Tariff Rule 16)

This bill:

1) Defines "energization" and "energized" to mean connecting customers to the electrical distribution grid and establishing adequate electrical distribution capacity or upgrading electrical distribution or transmission capacity to provide electrical service for new customers or to provide upgraded service to an existing customer. Requires the determination of adequate electrical distribution capacity to include consideration of future. Makes explicit that energization and energized does not include activities related to connecting electrical supply resources.

2) Requires the CPUC to determine the criteria for timely service for electric customers to be energized and requires the criteria to include:

a) Categories of timely electric service through energization, including:

   i) Timely start of service and timely fulfillment of requests for energization (including new service connections and increased load from existing service); and

   ii) Project types that justify unique or extended energization timelines (including those requiring upstream capacity upgrades or substation upgrades, unanticipated engineering or construction work, and others).

b) Establishing annual reporting requirements for the large electrical corporations to report customer energization projects in order to evaluate the electrical corporations' fulfillment of timely electrical service.

c) Annually convening a public workshop for the large electrical corporations to discuss their reports with interested parties and experts, including local government representatives. Requires the workshops to inform the CPUC in its determination of the criteria.

3) Requires each electrical corporation that energized less than 35 percent of customers with completed applications exceeding 12 months in duration by January 31, 2023, to submit a report to the CPUC by December 1, 2024, demonstrating that 80 percent of customers with applications deemed approved as of January 31, 2023 have been energized. Authorizes the CPUC to conduct an analysis of current energization status and adjust the thresholds and deadlines.

4) Requires each electrical corporation to evaluate and update its existing distribution planning process, including conducting annual meetings with interested parties, experts, and relevant county staff, to discuss information such as customer service, existing capacity, planned capacity upgrades, projected local demand, and others.

5) Requires each electrical corporation to share relevant information, including data available through the integrated capacity analysis tool, upon request with local governments.

6) Requires the CPUC to annually collect specified information from electrical corporations until new reporting requirements are established, including:

a) The number of submitted, completed, and pending requests for new customer connections and upgraded service, and

b) A summary of recorded spending on energization compared to the amounts authorized.

7) Provides that this bill does not apply to rural electric cooperatives and authorizes the CPUC to modify or adjust the requirements for electric al corporations with fewer than 100,000 service connections.

Background

Connecting to the electric distribution grid. Rules governing the ability of new buildings and generation and storage resources to connect to the electric distribution grid are generally determined by statute, CPUC rules, and tariffs, (i.e., document that specify rates, charges, rules, and conditions under which an electrical corporation will provide services to the public) for each of the electrical corporations. These service connections include:

New service connections refers to extending an electricity line or expanding distribution infrastructure to service new or expanded customer load, known as "energization."

> Electric Tariff Rule 15 (Distribution Line Extensions) relates to distribution line extensions. Specifically, new distribution facilities that are a continuation of, or branch from, the nearest available existing permanent distribution line (including any facility rearrangements and relocations necessary to accommodate the extension) to the point of connection of the last service. Rule 15 generally pertains to electric distribution grid equipment used by multiple customers, for example, a transformer serving multiple homes.
>
> Electric Tariff Rule 16 (Service Line Extensions) relates to service line extensions. The overhead and underground primary or secondary facilities (including but not limited to utility-owned service facilities and applicant owned service facilities) extending from the point of connection at the distribution line to the service delivery point. Rule 16 generally pertains to network equipment used by just one customer.

Electric Tariff Rules 15 and 16 establish the guidelines for design, cost allocation, and responsibilities of a project applicant and a utility for electric distribution line extensions. The ability to connect to the larger electrical system can take months

(if not, years, in some cases) as the process can entail the need for designs, assessments on costs allocations associated with improvements on the electric distribution system to allow for the connection, and other issues. In the case of new building developments, depending on the size of the development, the need for electric service extensions may be needed in phases over months, or years.

Growing backlog of utility energization projects. The demands for new service connections and upgrades to existing electrical distribution lines have been increasing, especially as California advances policies to deploy more electric vehicles (EVs), shift natural gas usages to electricity in buildings, and increase housing supply, including affordable housing. These projects all rely on access to the electric grid and often require upgrades to the electric distribution system. Additionally, the COVID-19 pandemic has created supply shortages and challenges affecting many sectors of the economy, including supply shortages for electrical equipment needed to connect new customers or expand energy load on the electric distribution system, such as transformers. Delays and challenges have been especially acute within the Pacific Gas & Electric (PG&E) service territory as the backlog for energization projects has grown substantially and delays have increased. The utility has acknowledged the growing backlog of identified capacity work that has delayed – sometimes by years – the in-service dates for new business customers. PG&E has shared it is attempting to better manage their queue for projects. The utility recently formed a monthly Technical Committee work group with representatives from their labor partners, California Building Industry Association, and regional building association staff and members to work on all technical and field issues. These monthly meetings are used to provide updates on the actions underway to improve the new service connection process, the impacts of those actions and next steps. Additionally, these meetings are used to collaborate and collect feedback on the improvement efforts and to address emerging areas of concern or interest. Nonetheless, the backlog is a growing frustration for the project developers, customers, local governments, and others waiting to have their projects energized.

CPUC adopts resolution to address energization timing. In response to a proposal from the electric IOUs, the CPUC issued Resolution E-5247 in December 2022, which establishes an interim 125-business day average service energization timeline for projects taking service under the EV Infrastructure Rules. This timeline excludes projects that must go through Rule 15 for distribution upgrades, projects above two megawatts, and projects that require upgrades to a substation. The resolution directs the electric IOUs to collect one year of EV Infrastructure Rule implementation data to inform an updated proposal for a permanent service energization timeline.

Load and generation Integration Capacity Analysis (ICA) Maps. ICA maps provide data designed to help contractors and developers identify project sites where existing electric grid infrastructure has capacity available to interconnect new distributed energy resources. The three largest electric IOUs each host a public data portal that includes these maps.

Comments

Need for this bill. As noted above, customers are experiencing delays in getting new service connections or upgraded capacity to receive service from the electrical grid, known as energizations projects. The proponents of this bill cite severe delays for energization projects, even after paying significant fees to connect to the electrical grid. They note an example in Humboldt County, last fall, where over 60 customers were told they would have to wait two to 10+ years to connect to the electric distribution grid due to limited capacity on the transmission lines in that region. These customers include a transitional housing project on city-owned property, as well as, new businesses. Additionally they note that the City of San Francisco has reported over 100 delays in connecting to the electric distribution grid, including connecting new affordable housing units.

Desire for more information sharing and accountability. Proponents of this bill contend improved accountability, reporting, and data sharing are necessary to address increased demand for energization projects. The CPUC notes some of this work is currently underway, including via the High Distributed Energy Resources. However, given the extreme backlog of energization projects and frustrated customers seeking to have their applications processed, the need for legislation seems warranted.

This bill proposes more accountability, transparency, and reporting by electric IOUs. This bill requires the CPUC, by July 1, 2025, to establish timely start of service and fulfillment of categories of customer requests for energization within the service territory of the state's three largest electric IOUs. This bill also attempts to address the existing backlog of projects by requiring electric IOUs that have energized less than 35 percent of customers with completed applications exceeding 12 months in duration by January 31, 2023, to report to the CPUC by December 1, 2024, demonstrating that 80 percent of customers with applications deemed complete as of January 31, 2023. The author's intent with this language is to capture and better address the backlog of energization projects within PG&E's service territory. The proponents of this bill also note the need for improved information sharing among electric IOUs and local governments to better plan for future energy demand growth. This bill requires more information sharing among

electric IOUs, local governments, and other interested parties by specifically requiring specified reporting, data sharing, annual public workshops, and annual meetings, including with impacted counties.

Related/Prior Legislation

SB 83 (Wiener, 2023) requires the CPUC to establish time periods to connect customers with development projects to the electrical grid. Additionally, requires electric IOUs to compensate development projects for failing to meet the deadline. The bill was held in the Senate Appropriations Committee.

SB 410 (Becker, 2023) requires the CPUC to establish time periods for energization projects to connect to the electrical grid. The bill also requires the CPUC to authorize the use of a mechanism to allow electric IOUs to recover costs associated with energization projects between General Rate Case proceedings. The bill is pending in the Assembly Floor.

AB 643 (Berman, 2023) allows the CPUC to impose fines for electrical corporations that routinely violate established interconnection timelines, and consider negligent exceedance of the timeline as a violation of CPUC rules subject to a maximum $100,000 penalty per offense. The bill was held in the Assembly Appropriations Committee.

AB 1293 (Irwin, 2023) requires the CPUC to provide guidance to electric IOUs for the prioritization of interconnection projects, including that the project is shovel-ready, as determined by the CPUC. The bill was held in the Senate Appropriations Committee.

AB 1482 (Gabriel, 2023) establishes an average service energization time for EV charging infrastructure of 125 business days for electric publicly owned utilities (POUs), and requires POUs to annually report certain information to the CEC regarding the service energization time for EV charging infrastructure projects. The bill additionally requires the CPUC and the CEC, in consultation with electric IOUs and POUs, to jointly host an annual public workshop to review and evaluate the information submitted and to revise, if needed, the average service energization time for EV charging infrastructure. The bill was held in the Assembly Appropriations Committee.

AB 1026 (Wood, Chapter 446, Statutes of 2019) required an electrical or gas corporation to apply only construction and design specifications, standards, terms, and conditions that are applicable to a new extension of service project for the 18 months following the date the application for a new extension of service project is

approved. Authorized an electrical or gas corporation to adopt modifications, as specified, of the construction and design specifications, standards, terms, and conditions of a new extension of service project.

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

According to the Senate Appropriations Committee, ongoing costs in the millions of dollars annually (ratepayer funds) for the CPUC to open a rulemaking, enforce bill provisions, verify and analyze data, and develop Integration Capacity Analysis tools, and establish a procedure for customers to report delays, among other things. In addition, the CPUC anticipates this bill could result in the filing of additional complaints arising from customer disputes over energization delays. An increase in filings could possibly have some associated costs.

SUPPORT: (Verified 9/8/23)

350 Humboldt: Grass Roots Climate Action
Bay Area Air Quality Management District
California Community Choice Association
California Farm Bureau
California Housing Partnership Corporation
California Large Energy Consumers Association
California Manufacturers & Technology Association
California State Association of Counties
California State Association of Electrical Workers
City of Belmont
City of Mountain View
City of San José
City of Santa Rosa
City of Suisun City
City of Visalia
Coalition of California Utility Employees
Councilmember Kerry Hillis, Town of Moraga
Councilmember Kevin Haroff, City of Larkspur
County of Butte
County of Humboldt
County of San Benito
County of Solano
County of Sonoma
East Bay Community Energy
East Bay YIMBY

Environmental Protection Information Center
Generation Housing
Grow the Richmond
How to ADU
League of California Cities
Mayor Chance Cutrano, Town of Fairfax
Mayor Devin T. Murphy, City of Pinole
Mayor Laura Hoffmeister, City of Concord
MidPen Housing
Mountain View YIMBY
Napa-Solano for Everyone
Natural Resources Defense Council
Non-Profit Housing Association of Northern California
Northern Neighbors
Peninsula for Everyone
People for Housing Orange County
Pioneer Community Energy
Progress Noe Valley
Redwood Coalition for Climate and Environmental Responsibility
Redwood Coast Energy Authority
Rural County Representatives of California
San Diego Community Power
San Francisco YIMBY
Santa Cruz YIMBY
Santa Rosa Metro Chamber
Santa Rosa YIMBY
Sierra Club California
SLO Co YIMBY
Sonoma Clean Power
South Bay YIMBY
South Side Forward
The Climate Center
The Utility Reform Network
Urban Environmentalists
Valley Clean Energy
Ventura County YIMBY
Vice Mayor Barbara Coler, Town of Fairfax
YIMBY Action

OPPOSITION: (Verified 9/8/23)

City of Norwalk

ARGUMENTS IN SUPPORT: According to the author:

> Severe electric energization delays have become the everyday reality of utility customers in California. In just one county located in my district, over 30 customers were told they would have to wait over 10 years for their lights to be turned on. This is unacceptable and alarming here in California, where we have set some of the most ambitious climate goals in the world. Currently, families and business-owners are being asked pay significant planning fees - up to hundreds of thousands of dollars – upon receiving "Will Serve" letters provided by utilities. Decades ago, these letters may have been an adequate commitment to customers, but what's really happening is businesses and residents are investing huge amounts of money only to later find out it may be many months or years before their houses and businesses can be occupied. As it turns out, "Will Serve" really means "Will Serve Eventually." As we strive to advance housing development, expand business, and meet our climate change goals, we have to get serious about the realities of electrification.

ARGUMENTS IN OPPOSITION: The City of Norwalk opposes this bill, having supported an earlier version, due to the deletion of prescribed time periods by when electric IOUs must connect customers.

ASSEMBLY FLOOR: 67-0, 5/25/23
AYES: Addis, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Megan Dahle, Dixon, Essayli, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Aguiar-Curry, Alanis, Bains, Calderon, Chen, Davies, Flora, Lackey, Mathis, Papan, Sanchez, Ta, Zbur

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
9/11/23 20:14:26

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

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

THIRD READING

Bill No: AB 88
Author: Sanchez (R), et al.
Amended: 9/8/23 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/27/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 77-0, 5/26/23 - See last page for vote

SUBJECT: Criminal procedure: victims' rights

SOURCE: Author

DIGEST: This bill requires a court to provide opportunity for a victim to be heard at a resentencing hearing if the victim desires to be heard, as specified, and prohibit the California Department of Corrections and Rehabilitation (CDCR) and the Board of Parole Hearings (BPH) from requiring more than 15 days' notice of a victim or victim's representative to be heard at a parole hearing.

Senate Floor Amendments of 9/8/23 double-joint this bill with AB 600 (Ting, 2023) to avoid chaptering issues.

ANALYSIS:

Existing law:

1) States that in order to preserve a victims' right to due process and justice, the victim is, among other things, entitled to: reasonable notice of all public proceedings which the defendant and the prosecutor are entitled to be present at and of all parole or other post-conviction release proceedings, as well as to be present at these proceedings; be heard, upon request, at any proceeding, including sentencing, a post-conviction release decision, or any proceeding in

which a right of the victim is at issue; and be informed of all parole procedures, to participate in the parole process, and to provide information to the parole authority to be considered before the person is paroled. (Marsy's Law, Cal. Const., art. I § 28(b)[7]-[8] & [15].)

2) Provides that when a defendant has been convicted of a felony offense and imprisoned, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary of BPH in the case of state prison inmates, the county correctional administrator in the case of county jail inmates, the district attorney of the county in which the defendant was sentenced, or the Attorney General (AG) if the Department of Justice (DOJ) originally prosecuted the case, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if they had not previously been sentenced, whether or not the defendant is still in custody, provided the new sentence, if any, is not greater than the initial sentence. (Pen. Code, § 1172.1, subd. (a)(1).)

3) States that the resentencing court shall apply the sentencing rules of the Judicial Council and apply any changes in law that reduce sentences or provide for judicial discretion so as to eliminate disparity of sentences and to promote uniformity of sentencing. (Pen. Code, § 1172.1, subd. (a)(2).)

4) Provides that the resentencing court may, in the interest of justice regardless of whether the original sentence was imposed after a trial or plea agreement, do the following:

   a) Reduce a defendant's term of imprisonment by modifying the sentence; or,

   b) Vacate the defendant's conviction and impose judgment on any necessarily included lesser offense or lesser related offense, whether or not that offense was charged in the original pleading, and then resentence the defendant to a reduced term of imprisonment, with the concurrence of both the defendant and the district attorney of the county in which the defendant was sentenced or the AG if DOJ originally prosecuted the case. (Pen. Code, § 1172.1, subd. (a)(3).)

5) States that the court may consider postconviction factors, including, but not limited to, the disciplinary record and record of rehabilitation of the defendant while incarcerated, evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the defendant's risk for future violence, and evidence that reflects that circumstances have changed

since the original sentencing so that continued incarceration is no longer in the interest of justice. (Pen. Code, § 1172.1, subd. (a)(4).)

6) Requires the court to 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 youth, as defined, at the time of the commission of the offense, and whether those circumstances were a contributing factor in the commission of the offense. (*Ibid*.)

7) Requires the court to state on the record the reasons for its decision to grant or deny recall and resentencing. (Pen. Code, § 1172.1, subd. (a)(6).)

8) Provides that resentencing may be granted without a hearing upon stipulation by the parties. (Pen. Code, § 1172.1, subd. (a)(7).)

9) States that resentencing shall not be denied, nor a stipulation rejected, without a hearing where the parties have an opportunity to address the basis for the intended denial or rejection. If a hearing is held, the defendant may appear remotely and the court may conduct the hearing through the use of remote technology, unless counsel requests their physical presence in court. (Pen. Code, § 1172.1, subd. (a)(8).)

10) Specifies that if a resentencing request is from the Secretary of CDCR, BPH, a county correctional administrator, a district attorney, or the AG, all of the following shall apply:

    a) The court shall provide notice to the defendant and set a status conference within 30 days after the date that the court received the request. The court's order setting the conference shall also appoint counsel to represent the defendant.

    b) There shall be a presumption favoring recall and resentencing of the defendant, which may only be overcome if a court finds the defendant is an unreasonable risk of danger to public safety, as defined. (Pen. Code, § 1172.1, subd. (a).)

11) States that the victim or next of kin if the victim has died is entitled to be notified, upon request, of any parole eligibility hearing and of the right to appear, either personally or by other means specified, to reasonably express their views, and to have their statements considered. (Pen. Code, § 679.02, subd. (a)(5).)

12) Requires, upon request to CDCR and verification of the identity of the requester, notice of any hearing to review or consider the parole suitability for any inmate in a state prison to be given by BPH at least 90 days before the hearing to any victim of any crime committed by the inmate, or to the next of kin of the victim if the victim has died. The requesting party shall keep BPH apprised of his or her current contact information in order to receive the notice. (Pen. Code, § 3043, subd. (a)(1).)

13) Requires, no later than 30 days before the date selected for the hearing, any person, other than the victim, entitled to attend the hearing shall inform BPH of their intention to attend the hearing and the name and identifying information of any other person entitled to attend the hearing who will accompany them. (Pen. Code, § 3043, subd. (a)(2).)

14) States that no later than 14 days before the hearing, BPH must notify every person entitled to attend the hearing confirming the date, time, and place of the hearing. (Pen. Code, § 3043, subd. (a)(3).)

This bill:

1) States that, notwithstanding the ability of the court to grant resentencing without a hearing when stipulated to by the parties, if a victim of a crime wishes to be heard pursuant to Marsy's Law or pursuant to any other provision of law applicable to the hearing, the victim shall notify the prosecution of their request to be heard within 15 days of being notified that resentencing is being sought and the court shall provide an opportunity for the victim to be heard.

2) Limits the amount of notice that CDCR may require from a victim, victim's next of kin, member of the victim's family, victim's representative, counsel representing any of these persons, or victim support persons of their intention to attend the hearing to no more than 15 days.

Comments

According to the author of this bill:

> Recently enacted emergency regulations adopted by the California Department of Corrections require crime victims to provide 15 days' notice and next of kin and immediate family members of crime victims to provide 30 days' notice if they wish to participate in parole hearings. (15 C.C.R. § 2057(b)-(c).) This requirement became operative on September 27, 2021 as an emergency regulation. This

applies regardless of whether they will participate in person or remotely. This requirement can be difficult for crime victims, but is especially onerous for their next of kin and family members. Prosecutors may need more time to locate these individuals and many could find it difficult for them to schedule that far in advance (https://calcoastnews.com/2021/08/parole-policy-harmful-to-victims-of-violent-crime/). Some may not even receive notice of the hearing with sufficient time to respond. While the Department needs some time to perform background checks for individuals who will enter prison grounds, it is unreasonable to require a different standard for victims' families and next of kin than crime victims and the same standard for in-person appearances and those providing remote testimony.

To address this, AB 88 provides that the Board of Parole Hearings cannot require more than 15 days' minimum notice that a victim, victim's next of kin, member of the victim's family, victim's representative, counsel representing any of these persons, or victim support persons, of their intention to attend a parole suitability hearing.

Too often, crime victims are unable to voice their concerns during criminal proceedings due to unnecessary bureaucratic hurdles. AB 88 will help crime victims meaningfully access and participate in parole hearings so that their perspectives are shared. The bill ensures that crime victims will not be an afterthought, but can be crucial participants in our criminal justice system.

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

SUPPORT: (Verified 9/8/23)

California District Attorneys Association
California Police Chiefs Association
California State Sheriffs' Association
California Statewide Law Enforcement Association
Los Angeles County Professional Peace Officers Association
Peace Officers Research Association of California

OPPOSITION: (Verified 9/8/23)

California Attorneys for Criminal Justice
Initiate Justice

ARGUMENTS IN SUPPORT: According to the California Police Chiefs Association:

> AB 88 sets a timeline for notification that the victim wishes to participate in a resentencing hearing. By setting a minimum timeframe, all parties involved will be better able to plan and engage with the court. This is also consistent with our constitutional laws meant to promote and protect victims' participation in court decisions.
>
> Too often we have seen unclear deadlines lead to victims missing their chance to weigh in on decisions directly impacting their lives and safety.

ARGUMENTS IN OPPOSITION: According to Initiate Justice:

> AB 88 (Sanchez) purports to support "voiceless" victims of crime, but in fact, victims do have voices and they have expressed their desire for counseling and healing services, not further exposure to court hearings. According to California Crime Survivors Speak , less than one in 1 five California crime victims report receiving financial assistance, counseling, medical assistance and other types of healing services that can help someone recover and stabilize. Supporting victims looks like ensuring they have what they need to be whole again, not attending more court dates. Re-sentencing hearings are few and far in between, and when they do happen, they are the result of years of deliberation. These decisions are not arrived at lightly, and often come after the facts of the case have been closely scrutinized and an incarcerated person has served decades in prison while often times demonstrating a strong rehabilitation record. Rarely, if ever, do victims have any personal knowledge of an incarcerated person's current actions, statements, attitudes, or current risk to public safety.

ASSEMBLY FLOOR: 77-0, 5/26/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince

Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NO VOTE RECORDED: Wendy Carrillo, Kalra, Ortega

Prepared by: Stella Choe / PUB. S. /
9/11/23 13:01:07

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

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

THIRD READING

Bill No: AB 96
Author: Kalra (D)
Amended: 9/6/23 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/14/23
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas
NOES: Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 56-10, 5/8/23 - See last page for vote

SUBJECT: Public employment: local public transit agencies: autonomous transit vehicle technology

SOURCE: California Conference Board of the Amalgamated Transit Union
California Labor Federation, AFL-CIO
California State Legislative Board of the Sheet Metal, Air, Rail and Transportation Workers – Transportation Division
California Teamsters Public Affairs Council

DIGEST: This bill requires public transit districts to notify, in writing, their employees' unions of the district's intention to begin any procurement process to acquire or deploy any autonomous transit vehicle technology for public transit services that would eliminate job functions or jobs of the workforce at least 10 months before beginning that procurement process.

Senate Floor Amendments of 9/6/23:

- Clarify that the Public Employment Relations Board (PERB) has jurisdiction to process unfair practice charges (ULPs) alleging violations of this bill's provisions but only at transit districts where it has jurisdiction to process ULPs.

- Provide that PERB's statutory and regulatory powers and duties shall apply, as appropriate, if a union files a ULP charge under this bill's provisions.

- Require PERB to perform its duties under the bill consistent with its regulations; authorizes PERB to make additional regulations; and authorizes PERB to adopt, amend, or repeal all rules and regulations necessary to carry out this bill's provisions as emergency regulations.

- Provide that PERB's adoption, amendment, or repeal of regulations pursuant to the bill's provisions, as specified, is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare.

ANALYSIS:

Existing law:

1) Establishes transit districts pursuant to various sections of the Public Utilities Code (PUC) for the purposes of providing public transportation services. However, cities, counties, and other local governmental entities may also establish transit agencies pursuant to their local authority under the Government Code or local charter. (PUC §§ 24501 through §§ 107025).

2) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors. While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights. (29 United State Code § 151 et seq.)

3) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the Meyers-Milias-Brown Act (MMBA) which provides for public employer-employee relations between local government employers and their employees, including some, but not all public transit districts. (Government Code § 3500 et seq.)

4) Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with administering certain statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City and County of Los Angeles, respectively, local alternatives to PERB oversight. (GC § 3541)

5) Does not cover California's public transit districts by a common collective bargaining statute. Instead, while some transit agencies are subject to the MMBA, many transit agencies are instead still subject to labor relations provisions found in each district's specific PUC enabling statute, in joint powers agreements, or in articles of incorporation and bylaws. (e.g., Public Utilities Code § 28500)

6) Provides transit employees not under the MMBA with basic rights to organization and representation, but does not define or prohibit unfair labor practices. Unlike other California public agencies and employees, these transit agencies and their employees generally rely upon the courts to remedy alleged violations unless otherwise provided in their enabling statute. Additionally, they may be subject to provisions of the federal Labor Management Relations Act of 1947 (Taft-Hartley) and the 1964 Urban Mass Transit Act, now known as the Federal Transit Act. (PUC § 24501 et seq.; 49 United State Code § 5333 (b))

7) Provides that the following provisions shall govern disputes between exclusive bargaining representatives of public transit employees and local agencies not covered by the MMBA:

   a) The disputes shall not be subject to any fact-finding procedure otherwise provided by law.

   b) Each party shall exchange contract proposals not less than 90 days before the expiration of a contract, and shall be in formal collective bargaining not less than 60 days before that expiration.

   c) Each party shall supply to the other party all reasonable data as requested by the other party.

   d) At the request of either party to a dispute, a conciliator from the California State Mediation and Conciliation Service shall be assigned to mediate the dispute and shall have access to all formal negotiations. (GC § 3611).

This bill:

1) Requires public transit districts to notify, in writing, their employees' unions of the district's intention to begin any procurement process to acquire or deploy any autonomous transit vehicle technology for public transit services that would eliminate job functions or jobs of the workforce at least 10 months before beginning that procurement process.

2) Provides that this bill's notification requirement does not supersede the union's right to disclosure of information by the public transit employer pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000)).

3) Requires, upon a written request by the union, that the public transit employer and the union commence collective bargaining within 30 days of the union's receipt of the notice by the employer of its intention to begin the procurement process or within 10 days of the public transit employer receiving the written request, whichever occurs later.

4) Requires the union and the public transit employer to only bargain over the following subjects, or related mandatory subjects of bargaining:

    - Developing the new autonomous transit vehicle technology.

    - Implementing the new autonomous transit vehicle technology.

    - Creating a transition plan for affected workers.

    - Creating plans to train and prepare the affected workforce to fill new positions created by a new autonomous transit vehicle technology.

5) Makes the following definitions:

    - "Autonomous transit vehicle technology" means technology that has the capability to drive a vehicle without the active physical control by a human operator.

    - "Plan to acquire or deploy" includes any public notification that initiates acquisition or deployment of autonomous transit vehicle technology.

    - "Procurement process" means the issuance of a request for proposals, a solicitation of proposals, or a request for quotations.

- "Public transit employer" means any local governmental agency, including any city, county, city and county, special district, transit district, or joint powers authority, that provides public transit services within the state.

- "Public transit services" means the provision of passenger transportation services by the public transit employer to the general public, including paratransit service.

6) Specifies that this bill's provisions shall not be construed as creating any labor requirements that are less protective of employees than any labor requirements created pursuant to statute or a collective bargaining agreement.

7) Makes this bill's provisions severable and provides that if any provision or its application is held invalid, the invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

8) Limits PERB's jurisdiction to process unfair practice charges (ULPs) alleging violations of this bill's provisions only to transit districts where it has jurisdiction to process ULPs.

9) Applies PERB's statutory and regulatory powers and duties, as appropriate, if a union files a ULP charge under this bill's provisions.

10) Requires PERB to perform its duties under this bill consistent with its regulations; authorizes PERB to make additional regulations; and authorizes PERB to adopt, amend, or repeal all rules and regulations necessary to carry out this bill's provisions as emergency regulations.

11) Provides that PERB's adoption, amendment, or repeal of regulations pursuant to this bill's provisions, as specified, is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare.

Comments

Need for this bill? According to the author, "There are no existing protections for transit workers who face displacement with the implementation of autonomous driving technology. Autonomous technologies that may displace workers are enticing to transit agencies as it would allow them to save money on labor costs. Transit employees play a critical role in facilitating a safe and smooth passenger experience for commuters and passengers across the state. In fulfilling non-driving

responsibilities, workers can increase accessibility for riders with disabilities, elderly riders, riders who speak other languages, and even younger riders.

"As technology continues to advance, we do not need to leave workers behind. Workers deserve a seat at the table when it comes to major changes in their workplace. AB 96 will put workers and riders' safety at the forefront of transitions to the future of work with autonomous technology in public transit."

Related/Prior Legislation

AB 2441 (Kalra, 2022) would have required a public transit district to provide notice 12 months before "any plan to acquire or deploy" new autonomous transit vehicle technology and negotiate with employee representatives before deploying such technology. The Governor vetoed the bill.

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

SUPPORT: (Verified 9/7/23)

California Conference Board of the Amalgamated Transit Union (co-source)
California Labor Federation, AFL-CIO (co-source)
California State Legislative Board of the Sheet Metal, Air, Rail and Transportation Workers – Transportation Division (co-source)
California Teamsters Public Affairs Council (co-source)
American Federation of State, County and Municipal Employees, AFL-CIO
California Nurses Association
California School Employees Association
State Building and Construction Trades Council of California

OPPOSITION: (Verified 9/7/23)

Autonomous Vehicle Industry Association

ARGUMENTS IN SUPPORT: According to the California Teamsters Public Affairs Council, "AB 96 is a comprehensive measure meant to restore and protect transit workers' voice in the implementation of new transit service, including automated vehicles. Regrettably, public transit employers have already begun to earmark dollars or show interest in the implementation of services that displace career-sustaining jobs across the industry. These new technologies may cut labor costs in the short term but fail to recognize the importance transit employees play in facilitating a safe and smooth passenger experience for commuters and passengers across the state."

ARGUMENTS IN OPPOSITION: According the Automated Vehicle Industry Association, "As recognized by the Newsom Administration in vetoing this exact bill last year, the bill would impose onerous requirements on transit agencies that would delay the rollout of autonomous vehicles ("AV") for use in public transit, and by doing so, would deny Californians the substantial transit-related benefits offered by AVs. In addition, we believe enactment of his bill will threaten California transit agencies' ability to compete for federal and state funding that value innovative solutions, particularly in serving vulnerable and/or underserved populations. For these reasons, we encourage the Committee to vote against the bill."

ASSEMBLY FLOOR: 56-10, 5/8/23
AYES: Addis, Aguiar-Curry, Alvarez, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Wendy Carrillo, Connolly, Davies, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Low, Lowenthal, Maienschein, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NOES: Megan Dahle, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Mathis, Joe Patterson, Sanchez
NO VOTE RECORDED: Alanis, Arambula, Juan Carrillo, Cervantes, Chen, Hart, Lackey, Lee, McCarty, Ortega, Jim Patterson, Ta, Wallis, Ward

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
9/12/23 18:48:07

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

SENATE RULES COMMITTEE AB 297
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 297
Author: Vince Fong (R)
Amended: 9/8/23 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 11-0, 6/27/23
AYES: Min, Seyarto, Allen, Dahle, Eggman, Grove, Hurtado, Laird, Limón, Padilla, Stern

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 80-0, 5/31/23 - See last page for vote

SUBJECT: Wildfires: local assistance grant program: prescribed grazing: advance payments

SOURCE: Author

DIGEST: This bill eliminates the sunset on the authority of the director of the Department of Forestry and Fire Protection (CalFire) to authorize advance payments under the Fire Prevention Grants Program and makes other changes to that program related to prescribed grazing, as defined.

Senate Floor Amendments of 9/8/23 remove some of the amendments adopted on 9/5/23. In particular, they remove "community-supported" from the term "prescribed grazing" under the Fire Prevention Grant Program's public education outreach funding category. Further, they remove "infrastructure, including, but not limited to, fencing and watering improvements for prescribed grazing" from the costs eligible for advance payment under this grant program.

Senate Floor Amendments of 9/5/23 address a code conflict with SB 675 (Limón). Both bills amend the same section: Public Resources Code Section 4124.5 in different ways. The amendments harmonize AB 297 with SB 675.

ANALYSIS:

Existing law:

1) Establishes CalFire within the California Natural Resources Agency (CNRA) under the control of the director. (Public Resources Code (PRC) §701)

2) Directs CalFire to establish a local assistance grant program for fire prevention and home hardening education activities in California. This program, known as the Fire Prevention Grants Program in the code and as the Wildfire Prevention Grants Program at CalFire, is under the direction of Deputy Director of Community Wildfire Preparedness and Mitigation within the Office of the State Fire Marshal. (PRC §4124.5 and §4209.1, respectively)

   a) Authorizes the director, until January 1, 2024, to authorize advance payments for program grants, as specified. (PRC §4124.5.)

   b) Defines "fire prevention activities" to mean those lawful activities that reduce the risk of wildfire in California, including mechanical vegetation management, grazing, prescribed burns, creation of defensible space, and retrofitting of structures to increase fire resistance. (PRC §4124.)

   c) Establishes a list of activities eligible for funding, including fire prevention activities, community planning, public education and outreach, technical assistance, workforce recruitment and training, and equipment purchases. (PRC §4124.5.)

3) Authorizes, until January 1, 2024, the CalFire director to authorize advance payments to specified entities for grants associated with certain budget items, including for the Fire Prevention Grants Program. (PRC §705.5.)

4) Authorizes, until January 1, 2025, a state agency that administers a grant program to advance a payment to a recipient entity according to the rules specified, including, that the advance payment may not exceed 25 percent of the total grant award unless specified conditions are met. (Government Code (GOV) §11019.1.)

   a) Authorizes the agency to only apply and utilize this advance payment authority if the program administered by the state agency expressly authorizes the use of that section. (GOV §11019.1.)

b) Authorizes CalFire, until July 1, 2025, to authorize advance payments pursuant to (4) on a grant awarded under the Fire Prevention Grants Program. (PRC §4124.5.)

5) Requires CalFire to provide a report to the Legislature on or before January 1, 2023, on the outcome of CalFire's use of advance payments for these programs. *PRC §§705.5 and 4799.05.*

This bill eliminates the sunset on the CalFire director's authority to authorize advance payments under the Fire Prevention Grants Program and makes other changes to that program related to prescribed grazing. Specifically, this bill:

1) Defines "prescribed grazing" to mean the lawful application of grazing by a specific kind of livestock at a determined season, duration, and intensity to accomplish defined vegetation or conservation goals, as specified. Prescribed grazing may involve any or multiple kinds of livestock.

2) Provides that under the Fire Prevention Grants Program:

   a) Clarify that the public education outreach funding category includes prescribed grazing.

   b) Eliminate the January 1, 2024 sunset on the director's authority to authorize advance payments.

   c) Expand the list of costs eligible for advancement payment of up to 50 percent of either the total grant award or the cost of the equipment to include supplies.

3) Makes other minor technical, conforming, and non-substantive changes.

Background

Grant payments. In the grant funding allocation process, many state agencies typically issue grant payments as reimbursements following the approval of receipts. Grantees are responsible for covering the costs of the project upfront. Local entities claim that it is not unusual for a number of months to pass between the time grant-related expenses are incurred and the reimbursement is received, which can be difficult for organizations that do not have sufficient capital.

For many grant recipients, including nonprofit organizations or disadvantaged communities, this can be a financial hardship. While many state agencies may

reimburse any interest incurred for bridge loans as an allowable grant expense, some organizations do not have the resources to qualify for a market rate loan. Some organizations may decline to apply for grant funding due to the likely delays in the reimbursement processes.

Advance payments. Advance payment of grant funds can help to limit issues with reimbursement timelines and the need for bridge loans. Typically, a percentage of the total grant is advanced to the recipient before or while expenses are incurred. This allows the grant recipient to use grant funds to start the grant project and requires the grant recipient to have less cash on hand to pay for grant expenses. Any remaining funds in the grant are usually repaid through the standard reimbursement process.

Fire Prevention Grants Program. As established pursuant to AB 1956 (Limón, Chapter 632, Statutes of 2018), CalFire administers the Fire Prevention Grants Program to fund robust year-round fire prevention efforts in and near fire threatened communities in high and very high fire hazard severity zones. The program focuses on increasing the protection of people, structures, and communities. The grants enable local organizations, like fire safe councils, to implement actions that address wildfire hazards and reduce wildfire risk to communities. Funded activities include hazardous fuel reduction, wildfire prevention planning, and wildfire prevention education.

The program is designed to complement the 2018 Strategic Fire Plan for California, the Wildfire and Forest Resilience Task Force Action Plan, and the Natural and Working Lands Climate Smart Strategy, which propose to protect lives, property, and resources, and increase the ability of natural and working lands to survive and mitigate the effects of climate change. The program is primarily funded from the Greenhouse Gas Reduction Fund and has awarded more than $457 million to grantees since 2017. In December 2022, CalFire announced the availability of up to $120 million for the program.

Prescribed grazing. Prescribed grazing for hazardous fuel reduction is the intentional use of domestic livestock to remove, rearrange, or convert vegetation to reduce the costs and losses associated with wildfires and to enhance the condition of forests, rangelands, and watersheds. In addition to fire prevention benefits, carefully managed grazing can provide important environmental benefits such as increased soil organic matter, control of invasive species, and improved habitat.

Comments

CalFire has authority under multiple statutes to offer advance payments for grants. For the Fire Prevention Grants Program, this authority comes directly from the program's authorizing statute (PRC §4124.5) and from a reference in that statute to the state's general advance payment law. The program also has authority to offer advance payments associated with certain budget items through January 1, 2024.

The authority from PRC Section 4124.5 allows the director, until January 1, 2024, to authorize advance payments for up to 25 percent of the grant award and, for the purpose of purchasing necessary equipment, up to 50 percent of either the total grant award or the cost of equipment, whichever amount is less. Generally, the grantee must spend the advanced funds within six months and must file accountability reports with CalFire every four months. This bill extends the sunset on the director's authority to authorize advance payments by 10 years, to January 1, 2034.

Under the state's general authority to offer advance payments (GOV §11019.1), which expires July 1, 2025, and which CalFire is authorized to use for the Fire Prevention Grants Program in PRC Section 4124.5, CalFire may advance payments under the following rules:

- CalFire must prioritize recipients and projects serving disadvantaged, low-income, and under-resourced communities or organizations with modest reserves and potential cashflow problems.

- CalFire must stipulate an advance payment structure and request process within the grant agreement or contract.

- CalFire must ensure the advance payment does not to exceed 25 percent of the total grant award. However, CalFire can increase this amount if it determines that the project requires a larger advance and the recipient entity provides sufficient justification and documentation to the administering state agency.

The advance payment recipient is also subject to certain rules, including that it must provide an itemized budget, spending timeline, and work plan; submit documentation to support the need for advanced payment, demonstrate good standing with the Internal Revenue Service; deposit advanced funds into a federally insured, interest-bearing account; establish procedures to minimize the amount of time that it takes to spend the advanced funds; and provide progress reports, as specified.

This bill does not touch CalFire's authority under GOV Section 11019.1, which sunsets on July 1, 2025. However, AB 590 (Hart, 2023) creates a new general advance payment authority for all state agencies that mirrors the authority in GOV Section 11019.1, but without a sunset or a requirement that the state agency have separate approval in its program statutes to use this advance payment authority. If that bill passes, all agencies would have advance payment authority under the bill's rules. AB 590 is pending on the Senate Floor. At some point, the Legislature may wish to consider whether the various advance payment authorities should be harmonized with the general advance payment authority or if specific types of grant programs or projects warrant specially-tailored advance payment programs.

Related/Prior Legislation

SB 675 (Limón, 2023) eliminates the January 1, 2024 sunset on the CalFire director's authority to authorize advance payments under the Fire Prevention Grants Program. The bill is pending on the Assembly Floor.

AB 590 (Hart, 2023) authorizes a state agency administering a grant program to provide an advance payment to a recipient non-profit organization, as specified. The bill is pending on the Senate Floor.

AB 156 (Committee on Budget, Chapter 569, Statutes of 2022) authorized CalFire, until July 1, 2025, to authorize advance payments under the Fire Prevention Grants Program pursuant to the general authority provided to state agencies to make advance payments provided in the Government Code.

AB 211 (Committee on Budget, Chapter 574, Statutes of 2022) deleted the sunset date for advance payments under CalFire's Forest Health Grants Program.

SB 63 (Stern, Chapter 382, Statutes of 2021) authorized the CalFire director to authorize an advance payment under the Fire Prevention Grants Program for an amount greater than 25 percent of the total grant award, not to exceed 50 percent of either the total grant award or the cost of equipment, whichever amount is less, for the purpose of purchasing necessary equipment.

AB 1956 (Limón, Chapter 632, Statutes of 2018) established the Fire Prevention Grants Program at CalFire and authorized, until January 1, 2024, the CalFire director to authorize advance payments for a grant not exceed 25 percent of the total grant award.

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

According to the Senate Appropriations Committee:

- CalFire does not anticipate any new costs as a result of this bill. However, CalFire is aware of one local assistance grantee that did not spend or liquidate their advance funds before their grant expired, and CalFire is still working with the grantee on the return of these funds to the department. If CalFire is unable to recover advanced funds from other grantees, this bill would result in losses of bond or General Fund monies, potentially in the hundreds of thousands of dollars.

- To the extent this bill results in additional projects and activities that increase the protection of people, structures, and communities or reduce the occurrence or severity of catastrophic wildfires from what otherwise would have occurred, potentially significant savings due to avoided fire suppression and other costs (General Fund).

SUPPORT: (Verified 9/8/23)

American Property Casualty Insurance Association
Association of California Water Agencies
California Farm Bureau Federation
California Fire Chiefs Association
California Forestry Association
California Special Districts Association
California State Association of Counties
County of Napa
County of Placer
El Dorado County Water Agency
Fire Districts Association of California
Humboldt Redwood Company, LLC
Mendocino Redwood Company, LLC
Pacific Forest Trust
Rural County Representatives of California
Sierra Business Council
Upper San Gabriel Valley Municipal Water District

OPPOSITION: (Verified 9/8/23)

None received

ARGUMENTS IN SUPPORT: According to the author, "Wildfire seasons are unpredictable, and the severity of the fires are ever-increasing. The 2020 wildfire season was the most destructive in California history. CAL FIRE estimated 4.3 million acres burned across 8,648 incidents, destroying 11,116 structures and resulting in the deaths of 33 people. The cost to residents in the state is tremendous and tragic. Shovel-ready projects across the state are ready to break ground to keep vulnerable communities safe, and [advance] payments from CAL FIRE will provide needed flexibility to local agencies and organizations to implement critical wildfire prevention projects. AB 297 bridges the wildfire prevention goals of the state with the readiness of locals to harden their communities."

ASSEMBLY FLOOR: 80-0, 5/31/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
9/11/23 13:39:59

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

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

THIRD READING

Bill No: AB 309
Author: Lee (D), Wendy Carrillo (D) and Kalra (D), et al.
Amended: 9/1/23 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 9-2, 6/20/23
AYES: Wiener, Blakespear, Caballero, Cortese, McGuire, Padilla, Skinner, Umberg, Wahab
NOES: Ochoa Bogh, Seyarto

SENATE GOVERNANCE & FIN. COMMITTEE: 5-2, 7/12/23
AYES: Caballero, Blakespear, Durazo, Skinner, Wiener
NOES: Seyarto, Dahle
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/1/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 55-16, 5/25/23 - See last page for vote

SUBJECT: The Social Housing Act

SOURCE: East Bay for Everyone

DIGEST: This bill creates the Social Housing Program within the Department of General Services (DGS) to identify and develop up to three social housing projects on state-owned surplus land deemed suitable for housing, as specified.

ANALYSIS:

Existing law:

1) Requires, pursuant to Executive Order N-06-19, DGS and the Department of Housing and Community Development (HCD) to identify excess state-owned property for affordable housing projects.

2) Requires DGS to follow a series of specified steps in the disposal of state properties identified by controlling departments and agencies as being in excess of their programmatic needs.

3) Requires HCD and DGS to develop a searchable database of surplus local sites for affordable housing, and for HCD to provide DGS with an annual list of vacant sites suitable and available for residential development.

4) Requires local governments to provide DGS with an inventory of infill, high-density sites to include in DGS' searchable surplus property database.

5) Permits the Director of DGS to, with the consent of the state agency concerned, lease for any period of time any real property or interest in real property that belongs to the state, when the director deems the leasing serves a beneficial public purpose limited to the development of housing, as specified.

6) Defines "excess land" to mean property that is no longer needed for either an existing or ongoing state program or a function of the state.

This bill:

1) Defines "social housing" to mean housing with the following characteristics:

   a) The housing units (or land on which housing units are built) is owned by a government entity (i.e., DGS).

   b) Housing developed, authorized, or owned by a public entity.

   c) The development contains housing units that accommodate a mix of household income ranges.

   d) Residents enjoy full protection against termination without just cause or for any discriminatory, retaliatory, or other arbitrary reason, and are afforded due process prior to being subject to eviction procedures.

   e) The land on which the housing units are built is protected for the duration of their useful life from being sold or transferred to any private for-profit entity to prevent the privatization of social housing.

   f) Residents have the right to participate directly and meaningfully in decision making affecting the operation and management of their housing units.

2) Creates the Social Housing Program in DGS with the core mission of ensuring that social housing developments are produced on leased state property to help address the housing crisis.

3) Authorizes the program to identify and develop up to three qualified social housing projects on land declared excess by a state department and deemed suitable for housing, as specified, with the intent to use the results to inform public policy related to developing an independent public entity to manage and develop social housing.

4) Defines "qualified social housing" to mean housing units that are on leased state property, as specified, and the land on which the social housing is developed or authorized by the program is owned by DGS and managed by a private entity.

5) Requires the program to comply with specified provisions related to the leasing of state property for housing purposes, require priority consideration to use the program's proceeds for the creation, development, and subsidization of qualified social housing, and require the program to act as a land bank for state properties in which to develop qualified social housing.

6) Requires the program to solicit bids to develop qualified social housing units and prioritize bids that demonstrate long-term revenue neutrality or a cost rent model, as specified.

7) Requires the program to employ the rental model that strives to ensure that residents do not pay more than 30% of their income for housing, and the ownership model that specifies units may only be sold after meeting the following conditions:

    a) A minimum of five years of owner-occupancy.

    b) The program must have the right of first refusal to buy back a property.

    c) Authorize a unit to be sold by the owner to an eligible buyer, subject to specified requirements, if the program does not purchase the unit.

    d) Properties must be sold at a price that allows the owner to have a reasonable return on investment, as specified.

    e) Upon the death of the owner of a social housing unit, a unit may be transferred to the deceased's heir, as specified.

8) Requires DGS to notify a city or county of a qualified social housing development occurring within its jurisdiction, and prohibit a city or county from denying the development.

9) Requires DGS to send a city or county any conceptual plans for a qualified social housing development, authorize the city or county to propose objective design review standards within 90 days that are comparable to the local agency's existing standards for comparable projects, and require DGS to accept those standards.

10) Authorizes DGS to accept design review standards proposed by a city or county after 90 days, but prohibit a local agency from proposing standards that include floor area ratios, height limitations, or density requirements.

11) Requires DGS to send completed plans to the city or county of a qualified social housing development occurring within its jurisdiction, and require the local agency to notify DGS if it makes written findings that the development might have a specific, adverse impact on public health or safety, as specified.

12) Authorizes the city or county to propose modifications to the development to mitigate those specific adverse impacts, and require DGS to accept those modifications. DGS may, at its discretion, accept proposed modifications received after 90 days.

Background

Social housing is simply publicly-subsidized housing, but within a specific framework, most commonly used outside of the United States. All definitions of social housing distinguish it in various ways from privately-owned, for-profit housing provided through market mechanisms. The Assembly Select Committee on Social Housing held an informational hearing on October 20, 2021 and Rob Weiner from the California Coalition for Rural Housing shared the Organization for Economic Cooperation and Development (OECD) definition of social housing as: "the stock of residential rental accommodations provided at sub-market prices and allocated according to specific rules rather than according to market mechanisms."

Under this definition, there are an estimated 480,000 subsidized housing units available for rent in California, or about 3.5% of the state's housing stock. These deed-restricted affordable rental units are generally built using a mix of public and private financing and residency is restricted to low-income households that make no more than 80% of county area median income (AMI). Other versions of social

housing specify permanent affordability requirements and ownership by the government or a non-profit entity. Most of California's deed-restricted affordable housing is not publicly owned and the length of affordability requirements varies, though permanent affordability is not required in most cases.

Another variation of social housing involves making accommodations available to all individuals regardless of their household income. In particular, Vienna, Austria is often held up as an example of a large city with widespread mixed-income social housing. The Viennese model relies on two key components: government owned, funded, and maintained social housing blocks and public-private partnerships for mixed-income, cross-subsidized housing. Cross-subsidization occurs when higher income households pay market rate rents which then subsidize the below market rents for lower-income households. This mechanism is the same logic that underlies California's density bonus law—a policy that allows residential developers to receive added density and other concessions and incentives from a local government in exchange for building a certain percentage of affordable units—and inclusionary housing ordinances—which mandate housing developers build a certain percentage of affordable units or pay in-lieu fees that are used to pay for future affordable housing.

Although Vienna provides access to affordable housing for a considerable portion of the population, private developers still play a role in the housing market. The large number of cross-subsidized mixed income housing units create competition in the private rental market, and private developers are forced to maintain low rents to remain competitive.

Comments

1) *Excess and Surplus State Land.* The State of California owns over 3,100 properties and over 44,000 parcels totaling nearly seven million acres in size. Most of these are actively in use by the state's departments and agencies, or are non-developable land.

   Each year, state agencies review their lands, identify real properties which are excess to their needs, and report them to DGS. Until recently, DGS' prioritization for this disposal was to transfer to other state agencies, sell to local governments, sell to affordable housing developers, or sell on the open market, in that order. During the period between 2010 and 2020, DGS disposed of 64 properties, of which seven were utilized for affordable housing.

   In January 2019, Governor Newsom issued Executive Order (EO) N-06-19, which ordered DGS and HCD to identify and inventory excess state-owned

property for affordable housing projects. In doing so, this EO reoriented DGS' priorities to focus on facilitating the conversion of excess property to affordable housing. Within the required three months, DGS reviewed over 44,000 parcels, and identified 92 properties potentially suitable for housing. Since the beginning of implementation in 2019, DGS has awarded 16 of these state properties, totally 24 projects, for affordable housing development, each of which is proceeding through the planning, development, or construction phase. These properties will provide approximately 5,000 units of affordable housing through a low-cost ($1/year), long-term (99+ years) ground lease with the state. In 2023, DGS will select and award at least 5 more sites for the development of affordable housing.

Generally, current law requires surplus property to be transferred or sold at market value, or upon such other terms and conditions that DGS determines are in the best interest of the state. Current law gives right of first refusal on any surplus property to a local agency and then to a nonprofit affordable housing sponsor, prior to being offered for sale to private entities or individuals in the open market. In addition, DGS is authorized to sell surplus property to a local agency or to a nonprofit affordable housing sponsor at a sales price less than fair market value if DGS determines that such a discount will enable housing for individuals or families of low or moderate income.

This bill utilizes existing efforts to convert excess state land to affordable housing by requiring the state to pursue three "social housing projects' on public land.

2) *Appropriations Amendments*. Amendments taken in the Appropriations Committee authorizes, rather than requires, social housing developed or authorized by a public entity to be owned by the public entity. They also delete a requirement that all social housing developed or authorized by the Program to be owned by DGS and managed by a private entity. They define "qualified social housing" developed under the Program and make other clarifying and conforming changes.

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

According to the Senate Appropriations Committee:

- HCD indicates that it would incur unknown, potentially significant staffing costs for program design and long-term compliance monitoring activities related to the three projects. There could be additional costs to establish a subsidized operating reserve or through future allocations, depending on the

mix of rental rates charged and the ability to fully cover ongoing capital needs and improvements solely from the rents charged. This bill could also create significant General Fund cost pressures as these projects may require some form of additional state subsidy for initial capital development costs. (General Fund)

- DGS indicates that initial administrative costs are likely to be absorbable within existing staff that supports current specified affordable housing programs, but that additional staff would likely be required in the future, depending on the scope and scale of the program. (General Fund, Property Acquisition Law Money Account)

SUPPORT: (Verified 9/5/23)

East Bay for Everyone (source)
Abundant Housing LA
Active San Gabriel Valley
AFSCME
Aids Healthcare Foundation
Alameda County Democratic Central Committee
California Apartment Association
California Democratic Party
California Labor Federation, AFL-CIO
California Nurses Association
California School Employees Association
City of Berkeley
Common Ground California
Council Member James Coleman, City of South San Francisco
Council Member Sean Elo-Rivera, City of San Diego, District 9
Council Member Zach Hilton, City of Gilroy
Culver City Democratic Club
Culver City for More Homes
Davis College Democrats
East Bay YIMBY
First 5 Alameda County
Greenbelt Alliance
Grow the Richmond
How to ADU
Indivisible CA Statestrong
Indivisible YOLO
Livable Communities Initiative

Mountain View YIMBY
Napa-Solano for Everyone
Northern Neighbors
Pallet Shelter
Peninsula for Everyone
Peninsula Interfaith Climate Action
People for Housing Orange County
Place Initiative
Progress Noe Valley
San Francisco YIMBY
Santa Clara Valley Water District
Santa Cruz YIMBY
Santa Monica Democratic Club
Santa Rosa YIMBY
SLO County YIMBY
South Bay YIMBY
South Pasadena Residents for Responsible Growth
South Side Forward
Streets for People
Tenderloin Housing Clinic
Urban Environmentalists
Urban Environmentalists
Ventura County YIMBY
Walnut Creek Association of Homeowners Associations
YIMBY Action
One individual

OPPOSITION: (Verified 9/6/23)

California Association of Realtors
Catalysts for Local Control
City of Bellflower
City of Camarillo
City of Chino Hills
City of Corona
City of Eastvale
City of Foster City
City of La Verne
City of Lakeport
City of Menifee
City of Montclair

City of Norwalk
City of Rancho Palos Verdes
City of Redding
City of Thousand Oaks
City of Visalia
City of Whittier
Fieldstead and Company
League of California Cities
Livable California
Mission Street Neighbors
United Neighbors San Dimas
Vizcaya Homeowners Association

ARGUMENTS IN SUPPORT: According to the author, "Housing is too expensive for millions of Californians. More than two in five households are considered rent burdened and spend over 30% of their income on housing, and more than one in five households spend over 50% of their income on housing. Over 97% of cities and counties haven't produced enough affordable housing, and existing strategies to address the lack of affordable housing have not been nearly enough to meet demand. Affordable housing relies on government subsidies, and there is significantly more demand for them than supply. Social housing is an important tool to ensure housing is affordable to people of all income levels. Social housing is publicly backed, self-sustaining housing that accommodates a mix of household income ranges. Housing is protected from being sold to a private for-profit entity for the duration of its life, and residents are granted the same protections as tenants in private property, if not more. Many countries throughout the world have successful social housing programs, and in the US, there are social housing developments such as in Montgomery County, Maryland using a similar model. Social Housing is how we provide and realize housing as a human right."

ARGUMENTS IN OPPOSITION: A number of organizations wrote in opposition to this bill, stating a variety of concerns. California Association of Realtors wrote in opposition to this bill, citing concerns over not prioritizing homeownership. Catalysts for Local Control opposes the bill, stating …"it is not ready for passage." The League of California Cities and various cities wrote in opposition, citing concerns over "Bypassing California's longstanding housing planning laws and local rules…". Fieldstead and Company wrote in opposition and requesting an amend to "…explicitly bar the use of eminent domain."

ASSEMBLY FLOOR: 55-16, 5/25/23

AYES: Addis, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Schiavo, Ting, Valencia, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Aguiar-Curry, Bains, Calderon, Grayson, Lackey, Mathis, Muratsuchi, Rodriguez, Soria

Prepared by: Mehgie Tabar / HOUSING / (916) 651-4124
9/6/23 10:45:33

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

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

THIRD READING

Bill No: AB 389
Author: Ramos (D), Garcia (D), Mathis (R) and Valencia (D), et al.
Amended: 9/11/23 in Senate
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE: 11-0, 6/22/23
AYES: Min, Seyarto, Allen, Dahle, Grove, Hurtado, Laird, Limón, McGuire, Padilla, Stern

SENATE EDUCATION COMMITTEE: 5-0, 9/11/23
AYES: Newman, Ochoa Bogh, Cortese, Glazer, McGuire
NO VOTE RECORDED: Smallwood-Cuevas, Wilk

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/12/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: Not relevant

SUBJECT: Native American repatriation: California Native American Graves Protection and Repatriation Act of 2001: California State University

SOURCE: Picayune Rancheria of the Chukchansi Indians
Redding Rancheria
San Manuel Band of Mission Indians
Shingle Springs Band of Miwok Indians
Tachi Yokut Tribe
Tule River Tribe

DIGEST: This bill requires the California State University (CSU) to comply with various requirements related to the handling, maintenance and repatriation of Native American human remains and cultural items under the California Native American Graves Protection and Repatriation Act of 2001 (CalNAGPRA).

ANALYSIS: Existing federal law creates the Native American Graves Protection and Repatriation Act (federal NAGPRA) of 1990, which, in part:

1) Requires federal agencies, museums, and institutions, which include University of California (UC) campuses, to repatriate "cultural items" to lineal descendants and culturally-affiliated Indian tribes and Native Hawaiian organizations, as provided;

2) Defines cultural items to include human remains, funerary objects, sacred objects, and objects of cultural patrimony, as specified;

3) Declares that the Secretary of the Interior may assess civil penalties on museums that fail to comply;

4) Establishes procedures for the inadvertent discovery or planned excavation of Native American cultural items on federal or tribal lands;

5) Makes it a criminal offense to traffic in Native American human remains without right of possession or in Native American cultural items obtained in violation of the Act, as provided; and,

6) Establishes penalties for trafficking in remains or cultural items, including up to 12 months imprisonment and a $100,000 fine for first offender violations. (Public Law 101- 601; 25 U.S.C. 3001-3013)

Existing state law creates the CalNAGPRA, which, in part:

1) States that it is the intent of the Legislature to, among other things, apply the state's repatriation policy consistently with the federal NAGPRA while considering the unique history of California towards California Indian tribes and facilitate the implementation of the federal NAGPRA with respect to publicly funded agencies and museums in California.

2) Requires any public agency or museum (includes UC and CSU campuses) that has possession or control over collections of California Native American human remains or associated funerary objects to complete a review of their inventories of all these remains and associated funerary objects in accordance with the requirements specified in the act.

3) Requires agencies and museums to consult with affiliated California Indian tribes on any protocols to be used in the inventory process prior to new or additional inventory work being conducted.

4) Requires an agency or museum receiving a repatriation request for human remains and cultural items to follow the criteria specified in the act.

5) Requires, further, the UC (UC only), as a condition for using state funds for the handling or maintenance of Native American human remains and cultural items, to establish a systemwide NAGPRA Implementation and Oversight Committee, and for any campus subject to the federal NAGPRA to establish a campus implementation committee and:

   a) Requires the UC Regents to establish a systemwide NAGPRA Implementation and Oversight Committee with membership as specified.

   b) Requires UC, in consultation with the California Native American Tribes, to adopt and implement certain policies and procedures to better implement the federal NAGPRA and to timely submit the policies and procedures to the Native American Heritage Commission for review and comment.

   c) Requires that UC ensure that each campus committee utilize the specified policies and procedures adopted and also adopt procedures to support appeals and dispute resolutions in cases where a tribe disagrees with a campus determination regarding repatriation or disposition of human remains or cultural items.

   d) Authorizes a UC campus to adopt policies to supplement the systemwide policies adopted, under certain conditions and in consultation with California Native American tribes.

   e) Requires each campus that is subject to the federal NAGPRA to establish a NAGPRA implementation committee, with membership as specified. The act provides that claims for repatriation or claims of any violation of the policies and procedures adopted are to be submitted to the campus committee for determination.

   f) Requires the California State Auditor (Auditor) to conduct an audit regarding the UC's compliance with the federal NAGPRA and the CalNAGPRA and report it's findings to the Legislature commencing in 2019 and again in 2021. (Health and Safety Code § 8010 et,al. and § 8024 – 8028.5)

This bill establishes various requirements for the CSU to better implement the federal NAGPRA. Notable provisions include the following:

1) Facilitate the establishment, composition, and function of systemwide and campus-level committees with respect to reviewing and advising the university on matters related to the university's implementation of legal requirements to increase repatriation outcomes or dispositions of Native American human remains and cultural items to California Indian tribes.

2) Adopt and implement systemwide policies regarding the culturally appropriate treatment of Native American human remains and cultural items, including a policy that prohibits the use of Native American human remains or cultural items for the purposes of teaching or research at the CSU while in the possession of a CSU campus or museum, as specified.

3) Adopt and implement clear and transparent policies and procedures on the systemwide requirements for submitting, processing, and implementing claims for the repatriation of human remains and cultural items, demonstrating cultural affiliation, notification to tribes of human remains and cultural items deemed culturally affiliated and unidentifiable and from whose state aboriginal territory the items were removed, as specified.

4) Adopt or amend systemwide CSU museum collection management policies to explicitly provide for the deaccession of collections containing Native American human remains and cultural items to effect the timely and respectful return of those items pursuant to valid claims submitted by a California Indian tribe.

5) Adopt systemwide CSU policies and procedures for the identification and disposition of culturally unidentifiable human remains and cultural items, as required by the federal NAGPRA, as specified.

6) Submit an annual report by December 31, 2024, and annually thereafter to the Legislature, on the CSU's systemwide progress in reviewing its collections of Native American human remains and cultural items.

7) Adopt supplemental policies if a campus determines that individual circumstances are not adequately addressed in the adopted and approved systemwide policies, in consultation with California Indian tribes.

8) Establish a systemwide NAGPRA Implementation and Oversight Committee, with at least a majority of the voting members from California Indian tribes, as specified.

9) Require each CSU campus to establish a campus-based NAGPRA Implementation Committee, with at least a majority of each campus membership to be from California Indian tribes, as specified.

10) Provide that to ensure that campuses have the funding necessary to comply with the act:

    a) Require each campus with Native American remains or cultural items collections to identify and estimate, by January 31, 2025, the funding and other resources it needs to complete repatriation under the CalNAGPRA in an appropriate and timely manner.

    b) Compile the estimates into a systemwide report, disaggregated by campus, and submit it to the Native American Heritage Commission and the Legislature.

    c) After evaluating the reasonableness of the campus estimate, identify and provide the required funding from existing systemwide or campus-based resources, or seek additional funding from the Legislature, to ensure adequate funding to support their activities.

11) Provide that the provisions of the bill are severable, as specified.

Comments

1) *Need for the bill.* According to the author, "This bill is a continuation on the work I have done on the proper repatriation of Native American remains and cultural items – this time for the California State University (CSU) System. After reviewing the Auditor's report released in June, I was upset at the lack of effort and respect from the CSUs. It has been over 30 years since the enactment of NAGPRA and CalNAGPRA, the fact that we are still dealing with this issue today is frustrating, and we must take action. This is an issue that I care deeply about and we must continue to hold institutions accountable so that we can allow for Native American tribes to finally have peace and closure on an issue that has been around for generations."

2) *Audit Report.* The Auditor released its report on the CSU's compliance with federal NAGPRA and CalNAGPRA on June 29, 2023. It states that, although the CSU Chancellor's Office has taken steps recently to support the campuses' repatriation efforts, it must take additional action to ensure that campuses prioritize complying with federal NAGPRA and CalNAGPRA. The audit surveyed all 23 CSU campuses and conducted further on-site reviews at four: CSU Chico, Sacramento, San Diego, and San Jose. Of the 21 campuses with

NAGPRA collections, more than half have not repatriated any remains or cultural items to tribes, and two campuses that returned remains or cultural items did not follow NAGPRA requirements when doing so. More than half of these 21 campuses do not yet know the extent of their collections of remains and cultural items, despite federal law requiring them to do so by late 1995. The report notes that campuses generally lack the policies, funding, and staffing necessary to follow the law and repatriate their collections. The system has repatriated only 6% of its collections to tribes to date. The audit additionally found that guidance or oversight has not been provided by the Chancellor's Office to campuses in order to ensure compliance with NAGPRA laws.

As a result of these findings, the Auditor provided legislative and Chancellor's Office recommendations. The Legislature is to require annual reporting from the CSU Chancellor's Office on systemwide progress as specified. Audit recommendations direct the CSU Chancellor's Office to do all of the following, in summary:

- Monitor campus efforts to review their collections and require the completion of their inventories by December 2024.

- Ensure that campuses properly consult with tribes regarding protocols for handling and identifying remains and cultural items, and issue a systemwide NAGPRA policy establishing consistent repatriation processes and training requirements in consultation with California tribes and the Native American Heritage Commission.

- Establish a systemwide NAGPRA oversight committee by December 2023.

- Implement a process for campuses to periodically report their repatriation activity to the systemwide oversight committee.

- Require that campuses with more than 100 remains and cultural items also establish NAGPRA committees and have full-time, experienced repatriation coordinators by June 2024.

- Assign a dedicated position to directly oversee the work of the systemwide CalNAGPRA project manager.

- Require each campus with NAGPRA collections to identify and estimate, by January 2024, the funding and other resources they need to complete repatriation in an appropriate and timely manner.

- Identify and provide the required funding from existing systemwide or campus resources or seek additional funding from the Legislature to ensure that campuses have adequate funding to support their federal NAGPRA and CalNAGPRA activities.

This bill expands upon the audit recommendations by establishing specific implementation requirements, including the composition of committees.

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

According to the Senate Appropriations Committee, the CSU Chancellor's Office estimates ongoing General Fund costs of $4 - $5 million to ensure appropriate staffing levels and implement the inventory controls necessary to comply with CalNAGPRA requirements.

SUPPORT: (Verified 9/13/23)

Picayune Rancheria of the Chukchansi Indians (co-source)
Redding Rancheria (co-source)
San Manuel Band of Mission Indians (co-source)
Shingle Springs Band of Miwok Indians (co-source)
Tachi Yokut Tribe (co-source)
Tule River Tribe (co-source)
ACLU California Action
Cahuilla Band of Indians
California Indian Legal Services
California Indian Nations College
California State University, Office of the Chancellor
California Tribal Families Coalition
Enterprise Rancheria
Generation Up
Indigenous Justice
International Indian Treaty Council
Morongo Band of Mission Indians
Pala Band of Mission Indians
Santa Rosa Rancheria Tachi Yokut Tribe
Santa Ynez Band of Chumash Indians
Shingle Springs Band of Miwok Indians
Wilton Rancheria
Yurok Tribe

OPPOSITION: (Verified 9/13/23)

United Auburn Indian Community

ASSEMBLY FLOOR: 74-0, 5/18/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Wallis, Ward, Weber, Wicks, Wood, Zbur, Rendon
NO VOTE RECORDED: Cervantes, Vince Fong, Friedman, Villapudua, Waldron, Wilson

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
9/13/23 18:28:17

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

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

THIRD READING

Bill No: AB 436
Author: Alvarez (D), Ramos (D) and Luz Rivas (D), et al.
Amended: 9/11/23 in Senate
Vote: 21

SENATE TRANSPORTATION COMMITTEE: 13-1, 6/13/23
AYES: Gonzalez, Allen, Archuleta, Becker, Blakespear, Cortese, Dahle, Dodd, Limón, McGuire, Newman, Umberg, Wahab
NOES: Nguyen
NO VOTE RECORDED: Niello, Seyarto

SENATE GOVERNANCE & FIN. COMMITTEE: 5-2, 7/12/23
AYES: Blakespear, Dahle, Durazo, Skinner, Wiener
NOES: Caballero, Seyarto
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 79-0, 4/27/23 (Consent) - See last page for vote

SUBJECT: Vehicles

SOURCE: Author

DIGEST: This bill removes the authorization for a local authority to regulate cruising and repeals the prohibition on cruising.

ANALYSIS:

Senate Floor Amendments of 9/11/23 resolve potential chaptering conflicts with AB 825 (Bryan) and SB 50 (Bradford).

Senate Floor Amendments of 8/28/23 add coauthors to the bill.

Existing law:

1) Defines “cruising” as the repetitive driving of a motor vehicle past a traffic control point in traffic that is congested at or near the traffic control point, as determined by the ranking peace officer on duty within the affected area, within a specified time period and after the vehicle operator has been given an adequate written notice that further driving past the control point will be a violation of the ordinance. (Vehicle Code (VEH) §21100)

2) Authorizes local to authorities adopt rules and regulations by ordinance or resolution regarding several matters including cruising.

3) Specifies that a person will not be in violation of an ordinance or resolution adopted to regulate cruising unless:

   a) That person has been given written notice on a previous driving trip past the control point and then again passes the control point in that same time interval; and
   b) The beginning and end of the portion of the street subject to cruising controls are clearly identified by signs that briefly and clearly state the appropriate provisions of this subdivision and the local ordinance or resolution on cruising.

4) Prohibits drivers from operating a vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic unless the reduced speed is necessary for safe operation, because of a grade, or in compliance with law. (VEH §22400)

5) Prohibits the operation of a vehicle that has been modified from the original design so that any portion of the vehicle has less clearance from the surface of a level roadway than the clearance between the roadway and the lowermost portion of any rim of any wheel in contact with the roadway. (VEH §24008)

This bill:

1) Repeals the authority of local authorities to adopt rules and regulations regulating cruising.

2) Repeals the prohibition of vehicles modified to have less clearance from the surface of a level roadway than the clearance between the roadway and the lowermost portion of any rim of any wheel in contact with the roadway.

Comments

1) *Purpose of bill.* According to the author "Cruising is part of culture for many multicultural communities, a way of expressing love for art, and bringing unity. Last year, the Legislature was clear that it supports and recognizes the history and culture of cruising. Since the 1980s, cities across that state began permitting these local bans. That was an unfair and targeting move. It is time that we repeal this local ordinances to allow multicultural communities to express their love for these amazing vehicles.

   "A number of cities through California have repealed the ordinance. I am happy to share that in my own district National City has repealed their local ordinance. A historic moment was made, now it's time for the California Legislature to fully implement repealing the local cruising ordinance."

2) *Cruising and lowriders.* Lowriders are customized cars with a lowered body often painted in colorful designs and fitted with hydraulics to allow height adjustable suspension. Lowriders are displayed in events involving cars slowly moving down a street in a repetitive manner, referred to as cruising. According to an NPR article published on February 16, 2023: "Cruising and lowriders both have their roots in postwar Southern California, where Chicanos made an art form out of car customization and turned to driving as a means of socializing and community organizing." Cruising is often a social activity, encouraging groups of owners to gather, show their pride for their vehicles, and enjoy the sights and community of a thoroughfare. Cruising in lowriders has been an important subculture in California for decades, popularized by Chicano communities after World War II as the "hot rod" trend began to sweep the country. Lowriders have taken on a political function, with cruising events serving as fundraisers for the United Farm Workers Labor Union, political fundraisers, COVID-19 vaccine drives, and participating in the census.

3) *Regulating cruising in California.* Despite the general popularity for cruising among Chicano communities, others began associating cruising with gang violence or disruptions to traffic and business. Cities across California began to enact bans on cruising starting in the 1970s during the oil embargo. In 1974, Los Angeles started taking actions against cruising by banning parking on the

San Fernando Valley's Van Nuys Boulevard and turning it into a one-way street. The following summer 15,000 people converged on Van Nuys Boulevard to protest the police actions.

In 1982, the California Legislature authorized cities to pass ordinances prohibiting cruising, declaring "the cruising of vehicles in business areas of cities and communities in this state for the purpose of socializing and assembling interferes with the conduct of business, wasted precious energy, resources, impedes the progress of general traffic and emergency vehicles, and promotes the generation of local concentrations of air pollution and undesirable noise levels." Following this authorization several more local communities enacted bans on low riding.

4) *Resolving to change.* In more recent years local jurisdictions have increasingly moved to remove these bans. Lowriding groups have been making the case that these initial bans were discriminatory, targeting a cultural practice and not actually improving safety. Businesses along drags that used to be frequented by cruising also raised concerns about loss of traffic to their businesses caused by the bans. National City lifted its ban temporarily on May 6, 2022. Sacramento's city council unanimously lifted their ban on May 31, 2022. An estimated 175 vehicles participated in an event celebrating the lifting of the ban, with cars meeting at Sweetwater high School where students held mariachi performances and a bake sale. San Jose lifted their cruising ban in September of 2022. However, despite these local efforts many cruising prohibitions still exist.

   Last year the California Legislature unanimously passed Assembly Concurrent Resolution 176 (Luz Rivas, Resolution Chapter 161, Statutes of 2022) which celebrates the history of cruising in California and encourages law enforcement to work with local car clubs to conduct safe cruising events.

5) *Encouraging fun while protecting safety and commerce*. This bill retains existing prohibitions on operating vehicles at such a slow speed as to impede or block the normal and reasonable movement of traffic. As such traffic enforcement will still be able to ensure that any vehicles, including lowriders, are not disrupting traffic. Local and state laws also generally address each of the other concerns related to cruising, such as noise levels or possibly associated criminal activity.

6) *Operating modified vehicles*. In addition to removing the ability for cities to regulate cruising this bill also repeals requirements preventing operation of

vehicles that have been altered to have a very low-riding frame. This prohibition mirrors other restrictions on modifications to vehicles in statute that are designed to maintain safety on the road. A lowered frame can make cars more likely to scrape on the road when driving over speed bumps and potholes, leading to damage to the road and the vehicle. If a vehicle is modified beyond the manufactured suggestions it could significantly damage vehicle components permanently without the operator being aware. This could cause the vehicle to experience a dangerous malfunction, especially when driven at highway speeds. As such repealing this section of the vehicle code may decrease traffic safety.

However existing law may have a limited effect in preventing vehicle modification. The existing vehicle code passed in 1958 is primarily enforceable for vehicles that have been permanently lowered. In 1959 a customizer named Ron Aguirre developed a way of bypassing the law with the use of hydraulic pumps and valves that allowed for changing the height of the vehicle with a switch. Using these systems many modern lowriders are able to adjust to normal heights when passing over road hazards or traveling by a law enforcement vehicle. According to the CHP, they have issued 85 citations for violations of this prohibition over the last 4.5 years. They also note that enforcement of this provision is primarily performed by local jurisdictions so rates are likely much higher.

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

SUPPORT: (Verified 8/28/23)

50th Chicano Moratorium Committee
Automotive Service Councils of California
Black Lowrider Association of San Diego
California Lowrider Alliance
City of Ceres Council District 2
City of Santa Rosa
Cruising Is Not a Crime
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Los Angeles Lowrider Alliance
Monica Montgomery Steppe - City of San Diego Council President Pro Tem
Sacramento Lowrider Commission
United Lowrider Coalition
United Lowrider Council of San Jose

OPPOSITION: (Verified 8/28/23)

California Contract Cities Association
City of Beverly Hills
City of Pico Rivera
East LA Coalition
Peace Officers Research Association of California
Whittier Blvd Merchant Association of East Los Angeles

ARGUMENTS IN SUPPORT: According to the Sacramento Lowrider Alliance, "The No Cruising and lower profiled vehicle laws were enacted as a means to control minorities who cruise. The law on lowered vehicles is from 1959. The cruising law is from 1988. The laws target minority and women individuals who own low-profile vehicles, known as "lowriders." The law profiles and stigmatizes lowriders as criminals for owning and driving beautiful vehicles. Lowriders are not "sideshows." We do not spin out, violently perform donuts, burn-out our tires and endanger the sightseeing public. We are low and slow!"

"… Lowriders are known across the State to voluntarily contribute to civic duties and economic recovery within our recognized cities and counties as we organize food drives, toy drives, water drives, clothing drives, and school supply drives, feed the unhoused, bringing prosperity to businesses when there are car shows and cruises and we contribute to non-profit organizations through fundraisers in the areas of humanities and participating in social service organizations. Moving forward, stop the oppression on cruising and lowered vehicles. Pass AB 436 so that lowriders can embrace who we are -- Art on wheels."

ARGUMENTS IN OPPOSITION: According to the California Contract Cities Association (CCCA), "Existing law in the Vehicle Code authorizes local jurisdictions to develop regulations in regards to various local transportation and public safety matters, including the operation of bicycles, the removal of illegally parked vehicles, and cruising. CCCA feels this authorization is of great importance, as cruising activity is a public safety issue in many of our member cities. The activity can create traffic control and congestion problems that then generate major logistical challenges for cities and their respective local agencies. Further, cruising can lead to street takeovers that are extremely dangerous. As an organization, we regularly voice our concern about reckless driving, street racing, takeovers, and sideshows. These activities are recurring issues that have overwhelmed many California communities and have had deadly impacts on activity participants as well as nearby pedestrians.

CCCA represents over 85 cities throughout California. For more than 65 years, CCCA's mission has been to advance the benefits of the contracting model and strengthen local control. With collaborative governance as a focal point, CCCA has advanced its mission through education, advocacy, networking, and legislative access to protect and enhance the quality of life for more than 7.5 million residents. As a matter of policy, our organization supports and defends the rights of cities on policy issues pertinent to them, including public safety. We thank you in advance for your consideration of our opposition to AB 436"

ASSEMBLY FLOOR: 79-0, 4/27/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NO VOTE RECORDED: Jim Patterson

Prepared by: Jacob O'Connor / TRANS. / (916) 651-4121
9/12/23 18:08:45

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

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

THIRD READING

Bill No: AB 531
Author: Irwin (D), et al.
Amended: 9/11/23 in Senate
Vote: 27

SENATE HOUSING COMMITTEE: 10-1, 7/10/23
AYES: Wiener, Ochoa Bogh, Blakespear, Caballero, Cortese, McGuire, Padilla, Skinner, Umberg, Wahab
NOES: Seyarto

SENATE GOVERNANCE & FIN. COMMITTEE: 6-2, 7/12/23
AYES: Caballero, Blakespear, Durazo, Glazer, Skinner, Wiener
NOES: Seyarto, Dahle

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/1/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 80-0, 5/30/23 - See last page for vote

SUBJECT: The Behavioral Health Infrastructure Bond Act of 2023

SOURCE: Author

DIGEST: This bill creates the Behavioral Health Infrastructure Bond Act of 2024, and authorizes, subject to voter approval, the issuance of $6.38 billion in general obligation (GO) to be issued to the Department of Health Care Services (DHCS) and Department of Housing and Community Development (HCD) for funding community-based treatment and residential care settings, as well as permanent supportive housing, as specified.

Senate Floor Amendments of 9/11/23 increase the overall bond to $6.38 billion. More specifically, these amendments: (1) Provide that grants administered by the DHCS shall be used for constructing, acquiring, and rehabilitating real estate assets

or investing in needed infrastructure to expand the continuum of behavioral health treatment resources to build new capacity or expanding expand existing capacity for short-term crisis stabilization, acute and subacute care, crisis residential, community-based mental health residential, substance use disorder residential, peer respite, community and outpatient behavioral health services, and other clinically enriched longer term treatment and rehabilitation options for persons with behavioral health disorders in the least restrictive and least costly setting, consistent with the BHCIP program; (2) increase the funds allocated to BHCIP by $1.5 billion as grants for local governments and eligible tribes, (3) increase the funding for permanent supportive housing for homeless veterans with behavioral health or substance abuse issues by $200 million (for a total of $1.065 billion); (4) provide that all BHCIP funded projects are eligible for streamlined approval, except that locked facilities will not be located on sites zoned for residential uses; and (5) makes other clarifying changes.

ANALYSIS:

Existing law:

1) Authorizes the Veterans and Affordable Housing Bond Act of 2018 for the purpose of funding various housing programs; includes a $1 billion increase in the bonding authority of the California Department of Veterans Affairs (CalVet) Home Loan Program.

2) Authorizes the Veterans Housing and Homeless Prevention (VHHP) Bond Act of 2014 for the purpose of funding $600 million in multifamily affordable, transitional, and supportive housing for low-income veteran households and veterans experiencing homelessness.

3) Authorizes the Veterans Bond Act of 2008 for the purpose of establishing a fund to provide farm and home aid for veterans in the amount of $900 million under the CalVet Home Loan Program.

4) Authorizes the Veterans Bond Act of 2000 for the purpose of creating a fund to provide farm and home purchase aid for veterans in the amount of $500 million.

5) Authorizes DHCS to administer the Behavioral Health Continuum Infrastructure Program (BHCIP), which awards grants for the construction,

acquisition, and rehabilitation of specified behavioral health treatment resources.

6) Authorizes specified housing development projects to be a use by right on specified sites zoned for retail, office, or parking, as specified, pursuant to AB 2011 (Wicks, Chapter 647, Statutes of 2022).

This bill:

1) Establishes the Behavioral Health Infrastructure Bond Act of 2024. Authorizes $6.380 billion in bond funds, upon voter approval on the March 5, 2024 ballot, to be issued and sold for the following purposes:

   a) $1.065 billion shall be used for loans or grants, grant implementation, grant oversight, and administrative costs for the conversion, rehabilitation, or new construction of permanent supportive housing, including scattered sites for veterans or their families who are homeless or at risk of homelessness and have mental health or substance abuse disorders, as specified.

   b) $922 million for loans or grants, grant implementation, grant oversight, and administrative costs for the conversion, rehabilitation, or new construction of permanent supportive housing including scattered sites for people who are homeless or at risk of homelessness and are living with a behavioral health challenge.

   c) Up to $2.893 billion for grants, grant implementation, grant oversight, and administrative costs for constructing, acquiring, and rehabilitating real estate assets or investing in needed infrastructure to expand the continuum of behavioral health treatment resources to build new capacity or expanding expand existing capacity for short-term crisis stabilization, acute and subacute care, crisis residential, community-based mental health residential, substance use disorder residential, peer respite, community and outpatient behavioral health services, and other clinically enriched longer term treatment and rehabilitation options for persons with behavioral health disorders in the least restrictive and least costly setting, consistent with the BHCIP program.

   d) $1.5 billion specifically for local governments and tribes for purposes (1)(c) above.

2) Requires HCD, in coordination with CalVet, to determine the methodology and distribution of the funds identified in (1)(a) above. Requires HCD to determine the methodology and distribution of the funds identified in (1)(b) above, and to issue guidance regarding implementation by July 1, 2025.

3) Requires DHCS to determine methodology and distribution of the funds identified in (1)(c) and (d) above, and to issue guidance regarding implementation by July 1, 2025.

4) Provides that a housing project funded by bond funds identified in (1)(a) and (b) above, shall be a use by right and subject to a streamlined, ministerial review process if it meets, among other things, the following criteria:

   a) It is located in a zone where multifamily residential use, office, retail, or parking are a principally permitted use;

   b) It is not on a specified environmentally sensitive site;

   c) Is not on a site or adjoined to any site where more than 1/3 of the square footage on the site is dedicated to industrial use;

   d) The development meets specified objective standards;

   e) The project meets specified labor standards;

   f) No housing units were obtained by eminent domain.

5) Provides that projects funded by bond funds identified in (1)(c) and (d) shall be a use by right and subject to a streamlined, ministerial review process, and not subject to a condition use permit, discretionary permit, or to any other discretionary review or approvals if it meets one of the following criteria:

   a) The project is a behavioral health treatment and residential setting, including but not limited to children's residential crisis programs, peer respite, children's and adult substance use disorder residential programs, recovery housing, short-term residential therapeutic program, and social rehabilitation program and is located in a zone where office, retail, or parking are a principally permitted use; or,

b) The project is a real estate asset and shall be located in a zone where office, retail, or parking are a principally permitted use.

6) Requires that applicable projects comply with housing first and may include recovery housing, as specified.

7) Creates the Behavioral Health Infrastructure Act Finance Committee, made up of the Controller, the Treasurer, and the Director of Finance, for purposes of authorizing the issuance and sale of bonds.

Background

California has the largest concentration of severely unaffordable housing markets in the nation and the statewide average home value reached a new record in June 2022 at $793,300. To keep up with demand, HCD estimates that California must plan for the development of more than 2.5 million homes over the next eight years, and no less than one million of those homes must meet the needs of lower-income households (more than 640,000 very low-income and 385,000 low-income units are needed). As a result of the severe housing shortage, millions of Californians, who are disproportionately lower-income and people of color, must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation—one in three households in the state don't earn enough money to meet their basic needs. As housing costs continue to rise, rent becomes less affordable for lower-income households, who are forced to live beyond their means (paying more than 30% of income on housing costs) or are pushed out of their homes, leading to rapid increases in homelessness.

Comments

1) *Author's statement*. "The connection between homelessness and behavioral health challenges is significant. Among Californians experiencing homelessness, nearly 40,000 have a severe mental illness and over 36,000 have a chronic substance use disorder. Among homeless veterans, over 50% suffer from mental health issues and over 70% are affected by substance use disorder. In response to this behavioral health crisis, I am proud to partner with Governor Newsom and Senator Eggman in proposing a major transformation of California's behavioral health care system. The Behavioral Health Infrastructure Bond Act of 2023 would be the single largest expansion of California's behavioral health system. The Act will expand access to high quality, unlocked, community –based residential care for those with the greatest

needs. Additionally, it will dedicate funding to veterans with behavioral health needs who are currently experiencing or at risk of experiencing homelessness. The $4.68 billion bond includes $3.815 billion in funds that would be used to build 10,000 new clinic beds and homes. The bond also includes $865 million dedicated to house veterans with serious mental illness or a substance use disorder. Voters would need to approve the Behavioral Health Infrastructure Bond Act of 2023 at the March 5, 2024 statewide primary election."

2) *Need for mental health beds and existing DHCS programs*. According to a recent study, people with mental health conditions require different levels of psychiatric beds, depending on the needs of the patient. Some need short term needs, while others have chronic, longer-term needs. California currently has a shortage of beds for all needs; according to this study, the state needs 4,767 beds for both acute and subacute needs, and an additional 2,963 community residential beds for those with chronic needs. The report recommends that the state prioritize psychiatric bed infrastructure for hose with the greatest needs, and particularly those that have the most difficulty accessing beds (such as those involved in the criminal justice system).

3) *New GO Bonds for behavior health beds*. This bond bill authorizes $6.38 billion in GO bonds, except as noted below, for either the acquisition of capital assets for, or the construction and rehabilitation of, or both, community based treatment settings and residential care settings that are voluntary, unlocked and create set downs from higher acuity levels of care along the behavioral health care continuum. These projects will also enjoy by right approval.

4) *Publicly available funds for affordable housing.* Only in the last few years have the California Legislature and Governor allocated General Fund dollars to affordable housing construction programs, following significant declines in federal funds in the 1980s. Beginning in 2019, an unprecedented $8 billion from the General Fund has gone to a variety of affordable housing programs. The Veterans and Affordable Housing Bond Act of 2018 (Proposition 1), authorized $3 billion to fund state affordable housing programs and $1 billion for the CalVet program, which provides mortgages to veterans. All of the funding from the bond will be fully allocated by the end of 2023. Proposition 2 of 2018 authorized the state to issue $2 billion in General Obligations bonds against revenues from the Mental Health Services Act for purposes of funding the No Place Like Home Program (NPLH). Those funds supported the construction of over 7,000 supportive housing units and the funds are now exhausted. Of these investments, only funds from the Affordable Housing and Sustainable Communities program (AHSC), federal and state low income

housing tax credits, and funds from SB 2 (Atkins, Chapter 364, Statutes of 2017), are ongoing sources of funding. These investments, while critical, have not made up for decades of disinvestment from the federal level. Significant ongoing investments are necessary to meet the current undersupply of housing affordable to lower-income families.

5) *New GO bonds for permanent supportive housing.* This bond bill provides up to $1.065 billion for the construction and rehabilitation of permanent supportive housing for veterans who are experiencing homelessness or are at risk of homelessness and are living with a behavioral health challenge. This bill provides an additional $922 million for people experiencing homelessness or at risk of homelessness and living with a behavioral health challenge. Projects funded by this bond would be eligible for a by right approval process if they meet specified criteria.

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

According to the Senate Appropriations Committee:

- *Bond costs:* Total principal and interest costs, in current dollars, of approximately $7.76 billion to pay off the bonds ($4.68 billion in principal and $3.08 billion in interest), with average annual debt service payments of $259 million (General Fund), when all bonds are sold, and assuming a 30-year maturity and an interest rate of 3.63% (the rate secured by the Treasurer for new 30-year bonds at the most recent sale). If interest rates increase to 5% in the near future, annual debt service would be approximately $304 million (General Fund) and total principal and interest costs over the repayment period would be approximately $9.13 billion.

- *Administrative costs:* The Department of Housing and Community Development (HCD) and the Department of Health Care Services (DHCS) would incur significant increased staffing and operations costs to administer the allocation of grants funded by this Bond Act (Behavior Health Infrastructure Fund). HCD and DHCS expects to utilize up to 3% of bond proceeds to design and implement the programs funded by the measure, including program operations and long term monitoring, or up to $140 million in total for administrative costs over time.

- *Ballot costs:* One-time Secretary of State (SOS) costs in the range of $784,000 to $984,000 for printing and mailing costs to place the measure on the ballot for

the March 5, 2024 statewide primary election. (General Fund)

- This measure would also create significant cost pressures to maintain the facilities constructed or rehabilitated using bond funds, and to provide ongoing behavioral health services to residents of those facilities. (General Fund, local funds)

SUPPORT: (Verified 9/11/23)

AARP
Big City Mayors
Board of Supervisors for the City and County of San Francisco
California Business Roundtable
California Conference of Carpenters
California Professional Firefighters
California Retailers Association
Chicano Federation of San Diego County
Cities of Compton, Fountain Valley, Fowler, Fullerton, Lemon Grove, Lindsay, Monterey, Moreno Valley, Paramount, Parlier, Riverside, Sacramento, Salinas, San Leandro, San Rafael, Santa Monica, and Tracy
Clinica Sierra Vista
Comite Civico Del Valle
County of Santa Clara
Devine & Gong, Inc.
El Camino Homeless Organization
Greater Sacramento Urban League
Hope the Mission
HousingMV.org
Illumination Foundation
Jewish Family Service of San Diego
Kings Tulare Homeless Alliance
Koreatown Youth and Community Center Inc.
Lieutenant Governor Eleni Kounalakis
Mayor Farrah N. Khan, City of Irvine
Mayor Jen Wolosin, City of Menlo Park
Mayor Jerry Dyer, City of Fresno
Mayor Sheng Thao, City of Oakland
Pallet Shelter
Parkview Legacy
Poverello House
Salt and Light Works

San Francisco Chamber of Commerce
San Gabriel Valley Economic Partnership
Southern California Rental Housing Association
Steinberg Institute
Supervisor James Gore, County of Sonoma District 4
Sutter Health
The Salvation Army
The Umbrella Effect: Project Becky
United States Veterans Initiative - Inglewood
Valley Industry and Commerce Association
Wiseplace
2 Individuals

OPPOSITION: (Verified 9/11/23)

None received

ASSEMBLY FLOOR: 80-0, 5/30/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
9/12/23 18:14:17

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

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

THIRD READING

Bill No: AB 647
Author: Holden (D)
Amended: 9/11/23 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/22/23
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas
NOES: Wilk

SENATE JUDICIARY COMMITTEE: 8-2, 7/11/23
AYES: Umberg, Allen, Ashby, Durazo, Laird, Min, Stern, Wiener
NOES: Wilk, Niello
NO VOTE RECORDED: Caballero

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/1/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 58-16, 5/30/23 - See last page for vote

SUBJECT: Grocery workers

SOURCE: United Food and Commercial Workers, Western States Council

DIGEST: This bill strengthens the existing recall and retention protections for grocery workers under the Grocery Worker Retention Law by, among other things, (1) adding an enforcement mechanism to hold the employer accountable for violations of grocery worker rights; (2) including distribution centers that meet specified requirements within the definition of "grocery establishment"; and (3) exempting incumbent and successor grocery employers whose sum of employees is less than 300 nationwide, as specified.

Senate Floor Amendments of 9/11/23, among other things, exclude retail stores that cease operations for 12 months or more, instead of 18 months or more; remove the rebuttable presumption that a termination was due to a nondisciplinary reason if it

occurred within a year of a change in control; and require employees and their representatives to provide written notice to the employer of alleged violations and provide the employer with a right to cure the alleged violations before bringing actions in superior court.

ANALYSIS:

Existing law:

1) Establishes grocery worker retention provisions requiring the buyer of an existing grocery store to retain employees for a 90-day transition period during which an employee may only be discharged for cause, as specified, and considered for continued employment at the end of the transition period. (Labor Code §2500-2522)

2) Defines "eligible grocery worker" to mean any individual (except managerial, supervisory or confidential employees) whose primary place of employment is at the grocery establishment subject to a change in control, and who has worked for the incumbent grocery employer for at least six months prior to the execution of the transfer document. (Labor Code §2502 (b))

3) Defines "grocery establishment" to mean a retail store that is over 15,000 square feet in size and that sells primarily household foodstuffs for offsite consumption, including the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods. A grocery establishment does not include a retail store that has ceased operations for six months or more. (Labor Code §2502 (d))

4) Requires an incumbent grocery employer, within 15 days after the execution of the transfer document (defined as the purchase agreement or other document effecting the change in control, as defined), to provide to the successor grocery employer the name, address, date of hire, and employment occupation classification of each eligible grocery worker. (Labor Code §2504 (a))

5) Requires the successor grocery employer to maintain a preferential hiring list of eligible grocery workers identified by the incumbent grocery employer, per the above, and to hire from that list for a period beginning upon the execution of the transfer document and continuing for 90 days after the grocery establishment is fully operational and open to the public. (Labor Code §2504)

6) Requires a successor grocery employer to retain each eligible grocery worker hired for at least 90 days after the eligible grocery worker's employment commencement date. During this 90-day transition employment period,

eligible grocery workers shall be employed under the terms and conditions established by the successor grocery employer and pursuant to the terms of a relevant collective bargaining agreement, if any. (Labor Code § 2506 (a))

7) Prohibits the successor grocery employer during the 90-day transition employment period from discharging without cause an eligible grocery worker retained per these provisions. (Labor Code § 2506 (c))

8) Requires, at the end of the 90-day transition employment period, the successor grocery employer to make a written performance evaluation for each eligible grocery worker who was retained. If the eligible grocery worker's performance is satisfactory, the successor grocery employer shall consider offering continued employment under the terms and conditions established by the successor grocery employer and as required by law. (Labor Code § 2506 (d))

This bill:

1) Revises the definition of "eligible grocery worker" to include separated employees.

2) Revises the definition of a "grocery establishment" to:

   a) Include a distribution center owned and operated by a grocery establishment and used primarily to distribute goods to or from its owned stores regardless of its square footage.

   b) Specify that it does not include a retail store that has ceased operations for 12 months or more (increase from the current six months reference in law).

3) Revises the definition of "successor grocery employer" to specify that a successor grocery employer may be the same entity as an incumbent employer when a change in control occurs but the covered employer remains the same.

4) Defines "job classification" as a system for categorizing certain duties into certain jobs.

5) Requires the incumbent grocery employer, in addition to providing the successor employer with specified employee information, to also provide the eligible worker list and contact information, including their cellular telephone number and email address, to any collective bargaining representative.

6) Specifies that if the incumbent grocery employer does not provide, within 15 days, the information on eligible grocer workers as required by law, the

successor grocery employer may obtain the information from a collective bargaining representative.

7) Prohibits an employer from refusing to employ, terminating, reducing the compensation of, or otherwise taking adverse action against any employee for seeking to enforce their rights under these provisions, as specified.

8) Provides that an aggrieved employee or an employee representative, such as a collective bargaining representative or nonprofit corporation, may bring an action in the superior court of the State of California for violation and may be awarded the following:

   a) Hiring and reinstatement rights, as specified.

   b) Front pay or back pay for each day during which the violation continues.

   c) The value of the benefits the employee would have received under any benefit plans.

   d) Punitive damages pursuant to Section 3294 of the Civil Code.

   e) Authorizes the court to award reasonable attorney's fees and costs to any employee or employee representative who prevails in an enforcement action.

9) Provides that before an employee or an employee representative brings an action in the superior court for a violation of these provisions, both of the following requirements shall be met: a) the employee has provided written notice to the employer of the provisions of this part alleged to have been violated and the facts to support the alleged violation; and b) the employer has not cured the alleged violation within 33 days from receipt of the written notice.

10) Provides that the Labor Commissioner may recover the following remedies on behalf of an aggrieved employee:

   a) Hiring and reinstatement rights, as specified.

   b) Front pay or back pay for each day during which the violation continues.

   c) The value of the benefits the employee would have received under any benefit plans.

11) Provides that the following civil penalties may be imposed for a violation of these provisions and may be recovered by the Labor Commissioner (LC), deposited into the Labor and Workforce Development Fund, and paid to the employee as compensatory damages:

    a) $100 for each employee whose rights are violated.

    b) An additional amount payable as liquidated damages not to exceed $1,000 per employee, as specified.

12) Provides that the LC may enforce these provisions, including investigating an alleged violation and ordering appropriate temporary relief to mitigate the violation and pending the completion of a full investigation or hearing, through specified procedures in existing law, such as issuing a citation against an employer who violates this section and by filing a civil action.

13) Authorizes a court, in an action brought by the LC for enforcement of these provisions, to issue preliminary and permanent injunctive relief to vindicate the rights of employees. Provides that in a civil action, the LC may also recover all remedies set forth in 8) above.

14) Requires the LC or court, in an administrative or civil action brought pursuant to these provisions, to award interest on all amounts due and unpaid at the rate of interest specified in subdivision (b) of Section 3289 of the Civil Code.

15) Specifies that these remedies, penalties, and procedures are cumulative.

16) Provides that citation procedures for issuing, contesting, and enforcing judgments for citations and civil penalties issued by the LC shall be the same as those set out in Labor Code sections 98.74 or 1197.1, as appropriate.

17) Authorizes the LC to promulgate and enforce rules and regulations and issue determinations and interpretations consistent with and necessary for the implementation of these provisions.

18) Provides that, when parties agree that a collective bargaining agreement supersedes these grocery retention requirements, in whole or in part, per existing law, such agreement must explicitly set forth in clear and unambiguous terms the requirements of these provisions that are superseded.

19) Exempts from all the grocery worker retention provisions, an incumbent grocery employer and the successor grocery employer executing the transfer

document with that incumbent grocery employer, if the sum of both of the following is less than 300:

a) The number of grocery workers employed, immediately prior to the change in control, by the incumbent grocery employer across that employer's grocery establishments nationwide.

b) The number of grocery workers employed, immediately prior to the change in control, by the successor grocery employer across that employer's grocery establishments nationwide.

Background

Need for this bill? According to the author, "In October 2022, Kroger and Albertsons announced their plans for an unprecedented $25 billion merger. These two grocery giants operate as some of the nation's largest full-service grocery chains, and have retail footprints in nearly every state and most major metropolitan areas. In addition, they employ over 700,000 workers across their numerous banners, with over 50 manufacturing facilities and over 5,000 retail stores.

"While Kroger is leading consumers and workers to believe that this merger will result in more access to cheaper foods, a merger between these two companies will instead result in large scale layoffs for workers and grocery stores closing down. Based on the volume of both chains in California, this could result in an estimated 5,750 jobs lost in the Los Angeles region alone. The latter consequence of grocery store closures will contribute to food deserts, occurring rural areas or vulnerable communities. This will result in increased food costs and a reduction in product variety, including seasonal, organic, and climate-friendly plant-based foods for consumers. With already dwindling grocery store numbers, an unregulated merger of this size has very real implications for our grocery store workers and the communities they serve."

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee and Senate Judiciary Committee analyses on this bill for more background information and information on prior and pending related legislation.]

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

According to the Senate Appropriations Committee:

- DIR indicates that it would incur first-year costs of $700,000, and $656,000 annually thereafter, to implement its provisions of this bill (Labor Enforcement and Compliance Fund).

- This bill could result in an unknown, probably minor increase in penalty revenue (Labor and Workforce Development Fund).

- This bill would result in unknown court workload cost pressures by authorizing a cause of action for violation of grocery worker retention laws. (Trial Court Trust Fund, General Fund).

SUPPORT: (Verified 9/11/23)

United Food and Commercial Workers, Western States Council (source)
Office of the Attorney General
California Employment Lawyers Association
California Federation of Teachers, AFL-CIO
California Food and Farming Network
California Labor Federation, AFL-CIO
California State Legislative Board of the Sheet Metal, Air, Rail and Transportation Workers - Transportation Division
California Teamsters Public Affairs Council
California Work & Family Coalition
Central California Environmental Justice Network
Centro Binacional Para El Desarrollo Indígena Oaxaqueno
CleanEarth4Kids.org
Consumer Attorneys of California
Economic Security Project Action
Indivisible CA: StateStrong
Los Angeles Alliance for a New Economy
Los Angeles County Federation of Labor
Pesticide Action Network
San Mateo Labor Council
TechEquity Collaborative
Western Center on Law and Poverty

OPPOSITION: (Verified 9/11/23)

California Chamber of Commerce
California Grocers Association
California Retailers Association
Westside Council of Chambers of Commerce

ARGUMENTS IN SUPPORT: According to the sponsors of this bill, "the loss of a grocery store and jobs is devastating to communities and local economies. Californians are already struggling with rising food prices and the loss of a job will

make it even harder for families to make ends meet, while grocery corporations rake in profits from a merger."

In rebuttal to the Chamber of Commerce's letter, the sponsor argues, "The enforcement mechanism provided in this bill will preserve these workers' jobs, not kill them. Without any private right of action, workers would have to rely on an underfunded and overwhelmed Labor Commissioner's Office where wait times for workers' claims average over 505 days."

ARGUMENTS IN OPPOSITION: Opponents of this bill argue that the changes and additions to existing law are unnecessary, as there is no data that supports the changes. Additionally, they are opposed to the private right of action created by the bill whereby employees, collective bargaining representatives and nonprofit corporations are granted the right to bring actions in superior court for violations and to pursue a broad list of remedies.

ASSEMBLY FLOOR: 58-16, 5/30/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Schiavo, Soria, Ting, Valencia, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NOES: Alanis, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Chen, Lackey, Stephanie Nguyen, Pacheco, Blanca Rubio, Villapudua

Prepared by: Margie Estrada / JUD. / (916) 651-4113
9/12/23 18:09:03

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

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

THIRD READING

Bill No: AB 829
Author: Waldron (R)
Amended: 9/8/23 in Senate
Vote: 27

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/20/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 80-0, 5/30/23 - See last page for vote

SUBJECT: Crime: animal abuse

SOURCE: Social Compassion in Legislation

DIGEST: This bill requires a court to consider ordering a defendant who has been granted probation after conviction of specified animal abuse crimes to undergo a mental health evaluation, and requires the defendant to complete mandatory counseling as directed by the court, if the evaluator deems it necessary

Senate Floor Amendments of 9/8/23 clarify that the records cannot be used in connection with any civil or criminal proceeding without the defendant's consent.

ANALYSIS:

Existing law:

1) Provides that any person who sexually assaults any animal for the reason of arousing or gratifying the sexual desire of a person is guilty of a misdemeanor punishable by up to six months in jail and/or a fine of $1,000 plus approximately 310% penalty assessments for a total fine of $4,100. (Penal Code § 268.5)

2) Provides that every person who, without the consent of the owner, willfully administers poison to any animal, the property of another, or exposes any poisonous substance, with the intent that the same shall be taken or swallowed by any such animal is guilty of a misdemeanor punishable by up to six months in jail/and or fine of $1,000 ($4,100 with penalty assessments). (Penal Code § 596)

3) Provides that every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street etc. without proper care and attention is guilty of a misdemeanor punishable by up to six months in jail/and or fine of $1,000 ($4,100 with penalty assessments). (Penal Code § 597.1)

4) Provides that every owner, driver, or possessor of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county etc. without proper care and attention shall be guilty of a misdemeanor punishable by up to six months in jail/and or fine of $1,000 ($4,100 with penalty assessments). (Penal Code § 597f)

5) Provides that any person who injures a police dog or horse is guilty of a misdemeanor or, if the injury is serious, a wobbler. The penalty for the misdemeanors are punishable by up to six months in jail/and or fine of $1,000 ($4,100 with penalty assessments). (Penal Code § 600)

6) Provides that if a person is granted probation for maliciously and intentionally maiming, mutilating, torturing, wounding or killing an animal, he or she shall order the defendant to complete counseling designed to evaluate and treat behavior or conduct disorders. (Penal Code § 597)

This bill:

1) Deletes the counseling and treatment requirement.

2) Provides that when a defendant is granted probation for:

   a) Sexually assaulting an animal;
   b) Poisoning an animal;
   c) Improperly caring for an animal;
   d) Maliciously and intentionally injuring an animal;
   e) Overworking an animal; or,
   f) Intentionally injuring or killing a guide dog, the court shall order the convicted person to successfully complete counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders, unless the defendant is ordered to complete treatment.

3) Provides that the court shall consider whether to order the convicted person to undergo a mental health evaluation by an evaluator chosen by the court.

4) Provides that if after evaluation, the mental health professional deems a higher level of treatment is necessary, the defendant shall complete the treatment as ordered by the court.

5) Provides that if the court finds that the defendant is financially unable to pay for counseling, the court may develop a sliding fee schedule.

6) Provides that an indigent defendant shall not be responsible for any costs.

7) Provides that a finding that the defendant suffers from a mental disorder, and any progress reports concerning the defendant's treatment or any other records created pursuant to this section, shall be confidential and shall not be released or used in connection with any civil or criminal proceeding without the defendant's consent.

Comments

According to the author, "Over the past 30 years, researchers and professionals in a variety of human services and animal welfare disciplines have established significant correlations between animal abuse and violence toward humans. Despite the recognition of this correlation, current sentencing options for animal abuse crimes are largely punitive measures that do little to help end the cycle of violence or rehabilitate offenders. Appropriate mental health counseling and education are important tools that can benefit public safety as well as reduce offender recidivism rates."

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

According to the Senate Appropriations Committee, unknown, potentially reimbursable costs to the courts and county mental health departments to cover the costs of evaluations and mental health treatment for indigent defendants convicted of specified animal abuse offenses (local funds, General Fund). Costs will depend on how many defendants receive mental health evaluations and treatment and are unable to pay; General Fund costs will depend on whether AB 829 imposes a reimbursable state mandate, as determined by the Commission on State Mandates.

SUPPORT: (Verified 9/8/23)

Social Compassion in Legislation (source)
4 Dogs Farm Rescue

Animal Place
Animal Welfare Data Center
Animals & Society Institute
Association for Parrot Care
CAUSE for SB Paws
Central Coast Herding Dog Rescue
Clinical Sierra Vista
Compassionate Bay
Depression Bipolar Support Alliance California
Do Good International
Faith Action for All
Feline the Love
Feral Cat Support
Fresno Furry Friends, Inc.
Fresno TNR
Front Harness by the Front Dog
Gingeroo Animal Rescue Network
Grassroots Coalition
Greater Los Angeles Animal Spay Neuter Collaborative
Holstein Haven Calf Rescue
Humane Decisions
In Defense of Animals
Lockwood Animal Rescue Center
Los Angeles Alliance for Animals
Los Angeles County District Attorney's Office
Los Gatos Plant-Based Advocates
Mendocino Coast Humane Society
Mendocino Feral Cat Alliance
Michelson Center for Public Policy
Milo Foundation
One Love CBD
Our Honor
Outta the Cage
Partners in Animal Care & Compassion
Pink Paws for the CAUSE
Plant-Based Advocates - Los Gatos
Project Minnie
Rabbits in Need, Inc.
Saving Grace LA Animal Rescue
Seeds 4 Change Now Animal Rescue

Singer Sanctuary
Starfish Animal Rescue
Start Rescue
Take Me Home
The Animal Rescue Mission
The Frank and Lucy Project
TippedEars
Urban Panthers Rescue
Vegan Flag
Ventura County Animal Services
Women United for Animal Welfare
622 individuals

OPPOSITION: (Verified 9/8/23)

California Attorneys for Criminal Justice
Political Animals / Roar
San Francisco Public Defender

ARGUMENTS IN SUPPORT: Many of the supporters of this bill signed a coalition letter stating in part:

> Thankfully, animal cruelty is a growing issue of concern for law enforcement as well as mental health professionals. In fact, currently more than half of all states now have provisions that allow for courts to order psychiatric evaluation and/or counseling as part of an animal abuser's sentence. Such laws recognize that animal abuse can be a symptom of underlying mental health issues. Offenders who display violence towards animals often subsequently commit violent acts towards humans whether it be child abuse, domestic violence, or, as we saw tragically in Parkland, Florida, mass shootings.
>
> Mental health evaluations for animal abusers is an important tool that should be available to courts. They are crucial for rehabilitation of animal abusers and will have a significant impact on the reduction of recidivism rates among animal abusers as well on preventing these abusers from escalating to human victims. It is long overdue that our laws, law enforcement, and correctional system recognize that animal abuse and its probable escalation to further violence is a significant issue, and we must take steps as early as possible to prevent more victims.

ARGUMENTS IN OPPOSITION: California Attorneys for Criminal Justice oppose this bill stating:

> Under California law, conditions of probation must be reasonably related to the crime of which the defendant was convicted or to future criminality. Conditions of probation will not be found invalid unless they have no relationship to the crime of which the offender was convicted, relate to conduct, which is not in itself criminal, or require (or forbid) conduct which is not reasonably related to future criminality. CACJ feels that, as written, AB 829 has the potential for misuse or abuse in that invite, upon a standardless finding of necessity, a single evaluator, whose methods, and scope of discretion are unspecified, to recommend the imposition or requirement for participation in treatment that is completely unrelated to the prevention of any future criminality.
>
> AB 829 would eliminate Penal Code Section 597(h) and create Penal Code Section 600.8 instead. Penal Code Section 600.8 would, in turn, re-enact certain provisions of Penal Code Section 597(h) while broadening its scope to include application to cases involving police dogs and horses (formerly expressly precluded by the Legislature) and to allow the opinion of a single mental health evaluator chosen by the court to dictate unspecified higher levels of treatment than were formerly required as terms of probation. AB 829 would also make the records of these court ordered evaluations and treatment confidential.
>
> CACJ recognizes the Legislature's past desire to provide effective treatment to those persons who commit animal cruelty due to behavior or conduct disorders to prevent recidivist behavior. Unfortunately, AB 829 vastly exceeds the scope of that legitimate goal and invites courts to make standardless findings to engage unspecified evaluators to decide who gets what treatment and what that treatment will consist of in an overbroad range of cases. Unlike existing law, the scope of AB 829 is virtually guaranteed to cause courts to find necessity on an ad hoc basis to engage unqualified or even unethical evaluators. Courts should not rely upon ad hoc determinations or conjecture in fashioning probation terms. As written AB 829 invites poor if not deleterious outcomes where court impose terms that have no relationship to the crime of which the offender was convicted, relate to conduct which is not in itself criminal and require expensive treatment that fails to prevent recidivist cruelty.

It should be noted that CACJ does embrace the confidentiality requirements engrafted by AB 829. CACJ further recommends that AB 829 might be better conceived in a fashion where courts are given a pre-conviction threshold standard for a finding a necessity such as whether any of the charged offenses would preclude a grant of diversion under Penal Code Section 1001.36(d). If not, the law might allow the court to offer, on a financial sliding scale, defendants who face animal cruelty charges, the opportunity to seek a confidential preliminary diagnosis by a qualified mental health expert such as is defined in Penal Code Section 1001.36(f)(2). Qualifying confidential diagnoses should then be made available for use by such defendants and their counsel so they may choose whether to make prima facie showing for meeting the minimum requirements of eligibility for diversion under Penal Code §1001.36.

CACJ believes that there is no logical reason to require conviction as a gateway to treatment for those animal cruelty offenders who suffer from one or more diagnoses for which the Legislature has already designed the Penal Code §1001.36 mental health diversion as an appropriate pathway to wellness. Such a restructuring of AB 824 would enable our courts to more effectively supervise and assist those whose evaluations indicate eligibility to qualify for and to receive the benefit of approved treatments supervised by qualified mental health experts. Thus, we believe the Legislature can better achieve the purpose of mitigating the entry and reentry into the criminal justice system while protecting a civilized society that consistently seeks to protect animal welfare. If someone needs the treatment contemplated by AB 829, then they will be far more likely to get that treatment and to mitigate future risk by being diverted under Penal Code Section 1001.36.

ASSEMBLY FLOOR: 80-0, 5/30/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting,

Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

Prepared by: Mary Kennedy / PUB. S. /
9/11/23 12:48:36

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

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

THIRD READING

Bill No: AB 918
Author: Garcia (D), et al.
Amended: 9/11/23 in Senate
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 8-0, 7/12/23
AYES: Caballero, Seyarto, Blakespear, Dahle, Durazo, Glazer, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 77-0, 5/22/23 - See last page for vote

SUBJECT: Health care district: County of Imperial

SOURCE: Author

DIGEST: This bill creates the Imperial Valley Healthcare District to provide healthcare services across Imperial County, gives the district various powers and responsibilities, and dissolves Pioneers and Heffernan Memorial Healthcare Districts.

Senate Floor Amendments of 9/11/23 modify who appoints the representative from El Centro on the Imperial Valley Healthcare District board, restore requirement for the board to review financial feasibility study conducted by Imperial County LAFCO, and address transfer of El Centro Regional Medical Center labor agreements in the event of an acquisition.

Senate Floor Amendments of 9/8/23 make various changes to the Imperial Valley Healthcare District governance structure, remove one of two required financial feasibility study reviews, impose requirements on the District's potential acquisition of El Centro Regional Medical Center, and allow its board to create an advisory committee.

ANALYSIS:

Existing law:

1) Enacts the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), which:

    a) Controls how local officials change the boundaries of cities and special districts, putting local agency formation commissions (LAFCOs) in charge of the proceedings; and,

    b) Directs LAFCOs to ensure that services are effectively and efficiently delivered, and local governments can only exercise their powers and provide services where allowed to by LAFCO, including the formation of new cities and special districts, modifications of existing boundaries, and dissolutions of unsustainable special districts.

    c) Provides a process for LAFCOs to approve changes of organization, including consolidations of districts, which generally includes a public hearing, and protest process.

2) Enacts the Local Healthcare District Law, which:

    a) Controls how healthcare districts can be formed according to specified procedures, the District Organization Law, and LAFCO Law. These procedures include: an impartial analysis by the LAFCO of the proposed formation; a determination that the district is "feasible, economically sound, and for the public interest," and a requirement that a majority of voters approve of the formation of the district.

    b) Allows healthcare districts to exercise various powers, including to lease or own property, build and operate healthcare facilities and services, to provide assistance to other entities to carry out those services, and to sell their assets.

    c) Provides that a five-member board of directors manages each healthcare district. Each member must be a registered voter residing in the district and serves a four-year term, with the exception of the initial board. The board of supervisors of the county with the greatest share of land in the district appoints the initial board. Upon appointment, the board selects two members by lot to serve two-year terms.

This bill:

1) Forms the Imperial Valley Healthcare District (IVHD) in Imperial County. Its territory includes all of Imperial County, including areas under the jurisdiction of Pioneers Memorial Healthcare District (PMHD) and Heffernan Memorial Healthcare District (HMHD). Following IVHD's formation, the CKH Act governs any change of organization.

2) Establishes an initial board of directors with the following members:

   a) One member PMHD appoints;

   b) One member HMHD appoints;

   c) One member from the City of El Centro the public health director for the County of Imperial appoints. This member must reside in El Centro, but cannot be an elected official or employee from the city, a current or former board member of El Centro Regional Medical Center (ECRMC), or an ECRMC employee; and

   d) One member of the public the Imperial County Board of Supervisors appoints, who must be a resident of the unincorporated areas of Seely or Ocotillo, or a county board supervisor who represents that area

   e) One tribal member from and appointed by the Quechan tribe. If a member is not appointed by the tribe within 60 days, the county board of supervisors can appoint a member of the public form the Winterhaven area.

   f) One member from and appointed by the City of Imperial.

   g) One member from and appointed by the City of Holtville.

3) Provides that, with the exception of the PMHD and HMHD appointees, appointees cannot be current or former employees of ECRMC, PMHD, or HMHD.

4) Provides that these appointing bodies have 60 days, starting on January 1, 2024, to appoint the initial board members. If they do not appoint board members within 60 days, the Imperial County Board of Supervisors must appoint the remaining members. The initial board must create a staggered board of directors by choosing a number of board members to remain on the board following the first district election.

5) Gives the initial board various responsibilities including:

a) Collaborate with the Imperial County LAFCO to determine the years that the voting districts and associated board positions will be up for election by July 1, 2024.

b) Recommend a permanent funding source mechanism to be presented to, and approved by, voters at the March 2024 or November 2024 election. The initial board, in collaboration with the Imperial County LAFCO, must use feasibility studies from the Kaufman Hall and the Imperial County LAFCO to determine the funding source mechanism.

c) Enter negotiations with the ECRMC to decide the terms of acquisition of the hospital. Upon reviewing the financial feasibility studies, and confirming the financial viability of integrating ECRMC into IVHD, the initial board must determine the terms of acquisition of ECRMC.

d) Provides that, if the initial board chooses to acquire ECRMC, the hospital must be acquired that with all its assets and liabilities. All existing hospital licenses and certifications of PMHD must be transferred to IVHD when applicable in order to avoid a disruption in providing health care services. The initial board of directors must initiate the process of applying for any licenses and certifications that cannot be transferred to IVHD within a year of formation.

e) Requires the initial board to finalize the terms of acquiring the hospital by November 5, 2024. The City of El Centro must negotiate in good faith with IVHD, but is not required to sell the hospital or agree to the terms that the initial board of directors finalizes.

f) Provides that terms of the acquisition must include IVHD, or any successor entity, assuming the duties and obligations of ECRMC's collective bargaining agreements and retirement plans, but does not require any successor entity to adopt the collective bargaining agreement and retirement plan across to other facilities owned by the same operator.

g) Decide a date for the dissolution of PMHD and HMHD. The date must be between July 1, 2024, and January 1, 2025, but can be different for each district.

h) Requires the initial board to hold three public meetings between AB 918's effective date and January 1, 2025, as follows:

    i) During the first public meeting, the initial board must inform the public of IVHD's establishment, the cost savings of having one countywide

health care district, and the findings of the financial feasibility studies conducted by Kaufman Hall and the Imperial County LAFCO.

ii) During the second public meeting, the initial board must inform the public of the recommended permanent funding source mechanism for IVHD.

iii) During the third public meeting, the initial board must inform the public about the acquisition of ECRMC.

i) If the initial board votes to acquire ECRMC, the initial board must hold a fourth meeting. During this meeting, the initial board must disclose the terms of the acquisition to the public.

j) Allows the IVHD board to establish a nonvoting community advisor committee with at least seven members of the County of Imperial in the health care industry, as specified.

6) Provides that until both HMHD and PMHD are dissolved, HMHD must hold a temporary clerical role to the initial board that is limited to the following:

a) Providing administrative employees or the financial means to hire administrative employees;

b) Providing financial resources to complete clerical tasks for meetings, including:

i) Creating meeting agendas;

ii) Setting meeting locations, dates, and times;

iii) Upon direction of the IVHD board and Imperial County LAFCO, ensuring the transfer of the existing healthcare districts into IVHD with minimal interruptions to ongoing health care services.

c) Providing a meeting venue, or providing the financial means for a venue; and

d) Providing the financial means to hire legal counsel.

7) Declares that it is the Legislature's intent that HMHD will hold a purely clerical role to the IVHD board and that HMHD will not hold a CEO or CFO role.

8) Provides that the IVHD board must consist of all elected members by the conclusion of the 2028 general election. Following their appointment, and notwithstanding the existing procedures for healthcare districts to establish zones, the initial board must adopt a resolution to divide the IVHD into seven voting districts, and elect the new board by voting district beginning with the next election after January 1, 2024. The board must collaborate with Imperial County LAFCO to establish the voting districts.

9) Requires the board, in establishing voting districts, to:

   a) Provide for representation in accordance with demographic, including population, and geographic factors of the entire area of the district; and

   b) Fix the time and place, and give public notice, for a hearing on the proposed voting districts, at which any district elector can present their views, but the board is not bound by their feedback.

   c) Declare the voting districts and describe voting district boundaries, which the board must establish and implement, along with any necessary election procedures, on or before July 1, 2024.

10) Provides that these voting districts must be effective for subsequent district elections, starting with the next district election after January 1, 2024. At the expiration of the terms of the members of the board, board members must be elected by voting districts. Each of the voting districts must elect one board member. Only those who have been a resident of the voting district for 30 days next preceding the date of election are eligible. Initial board members are ineligible to serve on the district's elected board for the first round of elections for each respective board seat.

11) Allows the board to fill vacancies through existing law's provisions for special district vacancies, which allow the board to fill the position by appointment or election as specified until the board has all elected members. Once the board consists of all elected members, upon a board vacancy that results in a voting district left unrepresented prior to the expiration of that seat's term, the remaining board members must appoint a resident of the voting district to fill the vacancy.

12) Dissolves HMHD and PMHD effective the date IVHD's initial board determines. Effective on that date, the measure transfers all assets, rights, and responsibilities of these districts to IVHD. From that date on, IVHD owns, possesses, and controls all these districts' property, documents, moneys, funds,

licenses, permits, and other assets. The dissolving districts must also transfer accounts payable and other contractual obligations.

13) Extends the terms of the PMHD and HMHD board members serving as of the effective date of this bill until January 1, 2025, or until each respective district is dissolved, whichever occurs first.

Background

Healthcare districts. Near the end of World War II, California faced a severe shortage of hospital beds. To respond to the inadequacy of acute care services in rural areas, the Legislature enacted the Local Hospital District Law to provide medically underserved areas without access to hospital facilities the ability to form special districts that could be a source of tax dollars for constructing and operating community hospitals. SB 1169 (Maddy, Chapter 696, Statutes of 1994) changed the name of the law to "The Local Healthcare District Law" to better reflect the shift in the provision of healthcare services outside hospital settings.

The powers and duties granted to healthcare districts under existing law have remained largely unchanged while the demographics of areas the districts serve, access and provision of healthcare services, and the districts themselves have vastly changed. For example, following the change in law in 1994, 14 healthcare districts have filed for bankruptcy, and over one-third of the healthcare districts in California have either closed or sold their hospital, thus moving away from the original legislative intent of "hospital districts."

Distressed hospitals. Over the past couple of years, many community hospitals have faced fiscal challenges, and in some cases bankruptcy. Since 2015, nine rural hospitals have closed, with many more at risk of closing. For example, Watsonville Community Hospital (WCH), a hospital that provides service across southern Santa Cruz and northern Monterey counties, filed for bankruptcy under private ownership on December 5, 2021. SB 418 (Laird, Chapter 1, Statutes of 2022) created the Pajaro Valley Healthcare District, and AB 178 (Ting, Chapter 45, Statutes of 2022) allocated $25 million to it, so that the newly created healthcare district could acquire the hospital through bankruptcy proceedings. In January 2023, Madera Community Hospital, which served predominately rural areas in the Central Valley closed its facilities, and in March 2023 filed for bankruptcy.

To respond to these financial challenges that hospitals face, AB 112 (Committee on Budget, 2023) gave $150 million to the newly created Distressed Hospital Loan

Program, which offers interest-free, working capital loans to financially distressed hospitals while they implement turnaround strategies to regain financial viability.

Imperial County healthcare. Various entities exist to provide healthcare to Imperial County's nearly 180,000 residents.

Pioneers Memorial Healthcare District (PMHD) was formed on July 8, 1974. PMHD has a five-member board of directors and operates a 107-bed hospital located in Brawley, California. Pioneers received $28 million from the Distressed Hospital Loan Program.

Heffernan Memorial Healthcare District (HMHD) was formed as a hospital district in 1947 and is located in Calexico, serving a population of approximately 40,000. HMHD filed for bankruptcy in 1995 and HMHD's hospital closed in 1998. HMHD's business plan update from April, 2021, states it is "focused on implementing and sponsoring programs that increase awareness to healthcare services and education for the Calexico community…"

El Centro Regional Medical Center (ECRMC) is owned by the City of El Centro, and operates a 161-bed hospital. The City appoints a board to operate the hospital. ECRMC has had a series of financial challenges that led to the closure of its maternal and child services ward. ECRMC also has to pay back $125 million in bonds it issued to finance seismic upgrades on the hospital. ECRMC received $28 million from the Distressed Hospital Loan Program.

On January 24, 2023, PMHD adopted a resolution approving a preliminary application to the Imperial LAFCO for the potential expansion of PMHD to cover the entire county. The application seeks the expansion of the PMHD boundaries to include all areas of the County and to prepare a governance structure of all areas within the new district boundaries. Imperial LAFCO considered the district's proposal at its March 23, 2023, meeting, but did not take further action.

Comments

1) *Purpose of the bill.* According to the author, "Access to healthcare in Imperial County is at serious risk. Only two hospitals serve the entirety of the county. The El Centro Regional Medical Center (ECRMC) is on the verge of financial collapse. The Pioneers Memorial Hospital's will be unable to retrofit due to escalating costs for retrofitting, their recent credit downgrade, and reports from engineers of the requirement of a complete physical restructure of the main hospital building and administrative wing. For these reasons it is crucial that we create a countywide healthcare district in which we can incorporate the

hospital and stabilize healthcare in in one of the state's most underserved communities. The establishment of a countywide healthcare district will result in multi-millions of dollars in savings to the Imperial Valley Healthcare District through the coordination of medical services, combined economies of scale of the prior healthcare districts including, having a single governing body and hospital administration, clinical integration, unified contracting and supplies management and an integrated medical system. At the same time, we can expect these hospitals to qualify as a sole community hospital across two campuses which would trigger an increase in Medicare reimbursement of several millions of dollars per year."

2) *Skipping the line.* While the Legislature has the authority to create, change, or dissolve local agencies, creating IVHD via legislation circumvents the normal process for district formation. The LAFCO already has an application on its desk to expand PMHD countywide. Instead of placing the decision whether to form the district in front of LAFCO, who possesses intimate knowledge of local services in Imperial County, and local voters to whom the district will be accountable, AB 918 places the decision in front of the Legislature. In doing so, it circumvents key safeguards designed to ensure that district formation is desirable and sustainable, including economic analysis and opportunities for local residents to weigh in on the district's formation. Without completing this process, it is unclear whether creating a new healthcare district is the best option for managing healthcare in Imperial County. However, if steps are not taken to solve financial challenges in the county's hospitals, it is possible they will have to cut back on services or could risk closure. The Legislature may wish to consider whether these circumstances justify bypassing the typical formation process, including voter approval, and whether other processes to review the economic sustainability of the district should be implemented.

3) *Show me the money.* If IVHD acquires the hospital, it also acquires the hospital's debts, which include $125 million in outstanding bonds. Additionally, IVHD would have a lot of work to do to complete seismic upgrades on Pioneers Hospital. Resolving these challenges would require additional resources. On the one hand, integrating the two healthcare districts and ECRMC could achieve certain efficiencies, like better coordination of care, having a single hospital administration for both hospitals, etc. Additionally, PMHD and ECRMC received $28 million each from the Distressed Hospital Loan Program. On the other hand, it is unclear whether this potential savings and loan amounts are sufficient to cover all the new district's expected expenses. Does establishing a new healthcare district and setting it on a path to

acquire a debt-ridden hospital without a clear financial plan in place adequately ensure the long-term sustainability of Imperial County's hospitals?

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

According to the Senate Appropriations Committee:

- Unknown, potentially significant local costs in the aggregate related to the creation of the IVHD, including the following requirements that may be reimbursable from the state General Fund, subject to a determination by the Commission on State Mandates:
- Imperial County Board of Supervisors: appointment of initial board members.
- City of El Centro: conducting a specified financial feasibility study and negotiating with the IVHD to sell the El Centro Regional Medical Center.
- HMHD: provide temporary clerical support to the IVHD, including providing administrative employees, financial resources to complete specified clerical tasks and to hire legal counsel and other employees.
- It is unclear what entity would cover other costs associated with establishing the new district, including costs to establish seven voting districts, costs to coordinate with LAFCO, and costs to reimburse county elections officials for the elections for new permanent board members and a permanent funding source mechanism. These costs may also be state-reimbursable. (General Fund)

SUPPORT: (Verified 9/11/23)

Best S.T.T.T.Forward
California Teamsters Public Affairs Council
City of Brawley
City of Calexico
City of Calipatria
City of El Centro
City of Imperial
Comite Civico del Valle
County of Imperial
Heffernan Memorial Healthcare District
Imperial County Medical Society
Imperial County Office of Education
Imperial Valley College
Imperial Valley Equity and Justice Coalition
Innercare
Local Agency Formation Commission of Imperial County

Los Amigos de la Comunidad, Inc.
Mothers & Men Against Gangs Coalition
Preston Hollow Community Capital
San Diego & Imperial Counties Labor Council
State Building and Construction Trades Council, AFL-CIO
University of California
Vo Medical Center
One individual

OPPOSITION: (Verified 9/11/23)

California Association of Local Agency Formation Commissions
Seven individuals

ASSEMBLY FLOOR: 77-0, 5/22/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NO VOTE RECORDED: Chen, Lackey, Quirk-Silva

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
9/12/23 18:08:46

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

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

THIRD READING

Bill No: AB 988
Author: Mathis (R) and Wicks (D), et al.
Amended: 8/14/23 in Senate
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 6/13/23
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto
NO VOTE RECORDED: Jones

SENATE FLOOR: 39-0, 6/19/23 (Consent)
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Becker

ASSEMBLY FLOOR: 79-0, 4/17/23 (Consent) - See last page for vote

SUBJECT: Miles Hall Lifeline and Suicide Prevention Act: veteran and military data reporting

SOURCE: Author

DIGEST: This bill requires an entity receiving funds from the 988 State Suicide and Behavioral Health Crisis Services Fund (988 Fund) to report on the number of individuals served who self-identified as veterans or active military personnel, if known.

Senate Floor Amendments of 8/14/23 add coauthors.

ANALYSIS:

Existing law:

1) Establishes the Office of Emergency Services (OES) and makes OES responsible for addressing natural, technological, or man-made disaster and emergencies, including responsibility for activities necessary to prevent, respond to, recover from, and mitigate the effects of emergencies and disasters to people and property.

2) Designates, under the National Suicide Hotline Designation Act, the three-digit telephone number "988" as the universal number within the United States for the purpose of the national suicide prevention and mental health crisis hotline system operating through the National Suicide Prevention Lifeline (NSPL) maintained by the Assistant Secretary for Mental Health and Substance Abuse and the Veterans Crisis Line Maintained by the Secretary of Veterans Affairs.

3) Creates, under the Miles Hall Lifeline and Suicide Prevention Act, the 988 Fund and requires the fees to be deposited along with other specified moneys into the fund. The 988 Fund is funded through a surcharge on telephone access lines, currently set at $0.08 through calendar year 2024 and a maximum of $0.30 per access line thereafter.

4) Requires the California Health and Human Services Agency (CHHSA), by no later than December 31, 2023, to create a set of recommendations to support the five-year implementation plan for the 988 hotline.

5) Authorizes OES, in consultation with the State Department of Health Care Services, to adopt regulations regarding how 988 funds received shall be disseminated to support the operations of the 988 system and related behavioral health crisis services.

6) Provides that, upon appropriation by the Legislature, funds in the 988 Fund be used for specified purposes and in accordance with specified properties.

7) Requires OES to require an entity seeking moneys available through the 988 Fund to annually file an expenditure and outcomes report containing specified information, including, among other things, the number of individuals served and the outcomes for individuals served, if known.

This bill requires an entity receiving funds from the 988 Fund to report on the number of individuals served who self-identified as veterans or active military personnel, if known.

Background

Author Statement. According to the author's office, "This bill adds the progress of the previous AB 988 by requiring entities receiving state 988 funding to report the number of self-reported veterans who used their services. This step will not violate anyone's privacy or access to mental health services. It will rather provide the legislature insight into how California's veterans are faring, and whether they are aware of these resources. The government can then take well-informed action to address the veteran mental health and suicide crisis. It's the least we owe them."

National Suicide Hotline Designation Act (NSHD) of 2020. The NSHD designated 988 as the new three-digit number for the national suicide prevention and mental health crisis hotline. Specifically, the NSHD requires the Federal Communication Commission (FCC) to designate 988 as the universal telephone number for a national suicide prevention and mental health crisis hotline, which operates through the NSPL Network.

To adequately fund the 988 system, the NSHD authorizes states to impose a fee on access lines for providing 988 related services. In the California Emergency Telephone User Surcharge Act, an access line is defined as a wireline communication service (landline), a wireless communication service line (cell phones), and Voice Over Internet Protocol (VoIP). Revenue from the fees must be held in a designated account to be spent only in support of 988 services, and the FCC must submit an annual report on state administration of these fees. The fees may only be spent on (1) ensuring the efficient and effective routing of calls made to the 988 suicide prevention and mental health crisis hotline to an appropriate crisis center; (2) personnel; and, (3) the provision of acute mental health crisis outreach and stabilization by directly responding to the 988 national suicide prevention and mental health crisis hotline.

In California, AB 988 (Bauer-Kahan, Chapter 747, Statute of 2022) implemented the NSHD. Under the bill, OES collects a surcharge for the 988 Fund and the 988 hotline and the 988 hotline is administered by the (CHHSA. The bill also required CHHSA to create a set of recommendations to support the five-year implementation plan for the 988 hotline by December 31, 2023.

Current Reporting Requirements. Last year's AB 988 required OES to require an entity seeking funds from the 988 Fund to annually file an expenditure and outcomes report. Specifically, the bill required the outcomes report to include, among other thing, the number of individuals served and the outcomes for individuals served, if known. This bill expands the existing reporting requirements to explicitly require an entity receiving funds from the 988 Fund to report the number of individuals served who self-identified as veterans or active military personnel, if known.

According to the author's office, "[veterans] disproportionately experience employment challenges, substance abuse, homelessness, and mental health problems. Most heartbreaking of all is their suicide rate: Veterans' suicide rates are 21% higher than non-veterans." To highlight this problem, the author's office points to the 2020 National Veteran Suicide Prevention Annual Report by the U.S. Department of Veterans affairs, which found that veteran suicide rates are 1.5 times higher when compared to non-Veteran adults.

Related/Prior Legislation

AB 988 (Bauer-Kahan, Chapter 747, Statutes of 2022) established the 988 Crisis Hotline Center for the purpose of connecting individuals experiencing a mental health crisis with suicide prevention and mental health services, as specified. Additionally, the bill required OES to require an entity seeking funds from the 988 Fund to annually file an expenditure and outcomes report, as specified.

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

SUPPORT: (Verified 8/14/23)

American Foundation for Suicide Prevention
Depression and Bipolar Support Alliance

OPPOSITION: (Verified 8/14/23)

None received

ARGUMENTS IN SUPPORT: According to the American Foundation for Suicide Prevention, "the reporting called for in AB 988 is consistent with the National Strategy for Veteran Suicide Prevention which calls for furthering surveillance and research on suicide mortality and morbidity among veterans. We firmly believe that AB 988 has important implications for the current and future health and well-being of all Californians."

ASSEMBLY FLOOR: 79-0, 4/17/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner Horvath, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NO VOTE RECORDED: Haney

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
8/16/23 10:11:47

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

SENATE RULES COMMITTEE AB 1065
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1065
Author: Jim Patterson (R)
Amended: 9/8/23 in Senate
Vote: 21

SENATE ENERGY, U. & C. COMMITTEE: 13-0, 6/20/23
AYES: Bradford, Dahle, Becker, Dodd, Eggman, Grove, Min, Newman, Rubio, Seyarto, Skinner, Stern, Wilk
NO VOTE RECORDED: Ashby, Caballero, Durazo, Gonzalez, McGuire

ASSEMBLY FLOOR: 75-0, 5/30/23 - See last page for vote

SUBJECT: Communications: California Advanced Services Fund

SOURCE: Author

DIGEST: This bill clarifies that otherwise eligible wireless communications providers may receive certain broadband infrastructure grants issued by the California Public Utilities Commission (CPUC).

Senate Floor Amendments of 9/8/23 address chaptering conflicts and clarify that this bill does not require the CPUC to reopen an existing proceeding or initiate a new proceeding.

ANALYSIS:

Existing law:

1) Establishes the California Advanced Services Fund (CASF), which is administered by the CPUC to fund broadband infrastructure and adoption in unserved and underserved communities. Existing law sets eligibility criteria for CASF grants, sets speed requirements for CASF-funded infrastructure, and authorizes the collection of a surcharge to fund the CASF until 2032. (Public Utilities Code §281 and §281.1)

2) Establishes various accounts within the CASF to fund broadband projects, including the Infrastructure Grant Account (IGA) and the Federal Funding Account (FFA) to fund last-mile broadband infrastructure projects. Existing law allocates surcharge funds to the IGA and allocates federal funds to the FFA to fund these broadband infrastructure projects. (Public Utilities Code §281)

This bill clarifies that otherwise eligible wireless providers may receive grants from the CASF IGA and FFA, and it specifies that this bill does not require the CPUC to reopen an existing proceeding or initiate a new proceeding.

Background

Status of CPUC broadband infrastructure funds. In 2021, the Legislature passed several bills that made a historic investment in broadband infrastructure. This legislation included SB 156 (Committee on Budget, Chapter 112, Statutes of 2021), which allocated $6 billion in federal and state funds to build a state-owned middle-mile broadband network. SB 156 also established the FFA and allocated $2 billion to the FFA to fund last-mile broadband projects in urban and rural counties. Since the passage of SB 156, the CPUC adopted rules for the FFA in in a 2022 decision (D.22-04-055). These rules established projects' eligibility for FFA grants. Under the CPUC's decision, wireless projects are not eligible for FFA grants.

In addition to passing SB 156, the Legislature also passed SB 4 (Gonzalez, Chapter 671, Statutes of 2021) and AB 14 (Aguiar-Curry, Chapter 658, Statutes of 2021). These measures revised and extended the CASF, including increasing program eligibility and raising speed standards for CASF-funded infrastructure. Following the passage of these measures, the CPUC adopted new rules for the CASF IGA in November 2022. Under the new CASF IGA rules, wireless infrastructure capable of meeting other CASF standards is eligible for grants from the IGA.

Funding swaps have given the CPUC more time to spend broadband monies. While the CPUC has adopted rules for its infrastructure programs, the CPUC has yet to issue grants under these revised rules. Wireless projects are eligible for CASF IGA grants, this bill would likely require the CPUC to revise its rules for the FFA. Funding swaps have provided the CPUC with more time to create and modify plans for broadband grants and evaluate applications for those monies. The FFA was originally established to fund broadband projects using allocations of Coronavirus State and Local Fiscal Recovery Funds, which must be encumbered by December 31, 2024. However, in subsequent budget actions, this funding has

been swapped for a combination of General Fund monies and a grant from the federal Capital Projects Fund. As a result, the CPUC now must only encumber Capital Projects Fund monies in the FFA by December 31, 2026.

Bill clarifies that wireless infrastructure is eligible for broadband grants. Existing statutes do not exclude wireless projects from CASF grant eligibility; however, CPUC decisions regarding the FFA have specified that wireless projects are not eligible for FFA funding. In April 2022, the CPUC adopted rules governing the FFA (Decision 22-04-055). These rules defined an eligible project as one "…capable of offering wireline broadband service at or above 100/100 Mbps, or 100/20 Mbps if symmetrical service is not practicable." The CPUC's exclusion of wireless broadband reflected the federal Department of Treasury's guidance to states that urged states to prioritize funding fiber optic broadband projects. This bill specifies that otherwise eligible wireless projects may receive grants from the CASF IGA and FFA, but it does not specify which wireless projects meet the federal and state standards.

Fixed wireless projects have had mixed results, but technology evolves. Historically, state and federal broadband infrastructure grants have included wireless projects; however, these projects have not always provided reliable broadband service that meets modern needs. The federal Rural Digital Opportunity Fund (RDOF) initially approved funds for multiple fixed wireless projects that were later rescinded when the Federal Communications Commission determined that the fixed wireless projects were unlikely to provide the services promised. It is possible that some fixed wireless technologies are superior to others and can provide speeds, latency, and reliability similar to those for wired broadband. These technologies may be quicker and cheaper to deploy broadband in areas where fiber installation is infeasible; however, it is unclear how the CPUC can distinguish the technical capacities of different wireless projects unless the CPUC adopts more specific criteria for wireless projects and devotes greater time to reviewing the capacity of these technologies.

Related/Prior Legislation

AB 2749 (Quirk-Silva, 2022) would have required the CPUC to take various steps regarding applications for the FFA, and the bill would have clarified that otherwise eligible wireless providers are eligible for grants from the FFA. The bill was vetoed.

SB 4 (Gonzalez, Chapter 671, Statutes of 2021) and AB 14 (Aguiar-Curry, Chapter 658, Statutes of 2021) revised and extended the CASF by increasing speed standards for CASF-funded infrastructure to 100/20 Mbps, expanded eligibility to communities that lack broadband service meeting federal standards, expanded local governments' eligibility for CASF grants, and extended CASF's operation and funding until 2032.

SB 156 (Committee on Budget, Chapter 112, Statutes of 2021) implemented broadband infrastructure spending approved in the 2021 Budget Act. The bill established the FFA within CASF, set forth funding allocations for the FFA, and created technical assistance and additional broadband funding opportunities for local governments. The bill also established the Office of Broadband and Digital Literacy and required the office to oversee the construction of a state-owned, open access middle mile broadband network.

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

According to the Senate Committee on Appropriations:

- The CPUC estimates ongoing costs of about $537,000 annually and one-time costs of about $200,000 over four years (California Advanced Services Fund [CASF]) to review proposed wireless projects during the grant evaluation phase and, once the project is deployed, conduct field inspections including on-site speed and reliability testing, among other things.

- Unknown but likely significant ongoing cost pressure (CASF) for additional funding to provide grants to entities that would be made eligible by this bill.

SUPPORT: (Verified 9/8/23)

Supervisor Jaron E. Brandon, Tuolumne County- District 5
Advanced Wireless
Cal.net, Inc.
Competitive Carriers Association
CTIA
NATE-The Communications Infrastructure Contractors Association
OACYS
Rural Wireless Association
Tarana Wireless
The Wireless Infrastructure Association
WISPA-Broadband Without Boundaries

OPPOSITION: (Verified 9/8/23)

5G Free California
Alliance for Nurses for Healthy Environments
AltaPasa Residents for Responsible Technology
As You Sow
Boyle Heights Community Garden
Breast Cancer Prevention Partners
California Brain Tumor Association
California Nurses for Environmental Health & Justice
Californians for Safe Technology
Center for Environmental Health
Clean Earth 4 Kids
Communications Workers of America, District 9
Consumers for Safe Cell Phones
Dietrick Institute for Applied Insect Ecology
Ecological Options Network
EMF Safety Network Education/Outreach
Environmental Health Trust
Environmental Working Group
FACTS: Families Advocating for Chemical and Toxics Safety
Feather River Action!
GMOScience
Health & Habitat, Inc.
Malibu for Safe Tech
Media Alliance
Moms Across America
Mothers of East LA
Neighbors for Safe Metering
Parents for a Safer Environment
Physicians for Safe Technology
Plumas Wired!
Preserve Rural Sonoma County
Safe Tech for Santa Rosa
Safer 5G Moraga
Salmon Protection and Watershed Network
Sonoma County Tomorrow
Sonoma Neighbors for Safe Tech
Sonoma Safe Ag Safe Schools
Stop Smart Meters!
The Utility Reform Network

Topanga Peace Alliance
Towards an Internet of Living Beings
Wine & Water Watch
Wireless Radiation Education & Defense
Several Individuals

ARGUMENTS IN SUPPORT: According to the author:

> We have the shared goal of connecting as many households as possible with broadband internet. AB 1065 supports the pursuit of that goal by making wireless broadband projects eligible for state grants that fund broadband deployment.

ARGUMENTS IN OPPOSITION: Opponents largely oppose this measure because they oppose wireless technology and the use of state grants to support the expansion of wireless broadband service. Media Alliance opposes this bill because it argues that fixed wireless technology is not sufficiently reliable. In opposition, Media Alliance states:

> Federal infrastructure funding, which California is heavily relying on to supplement state funds supporting the fiber broadband middle mile project, has clearly stated that their funding policy is to explicitly prioritize and favor fiber infrastructure broadband projects. By asserting that California will not, in fact, follow the federal guidelines, the state runs the not inconsiderable risk of having allocated federal funds not disbursed or clawed back due to the state's insistence on using inferior technology options at the behest of incumbent providers. This could be the undoing of the state's ambitious broadband expansion.

ASSEMBLY FLOOR: 75-0, 5/30/23
AYES: Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio,

Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Rendon
NO VOTE RECORDED: Aguiar-Curry, Ortega, Reyes, Wood, Zbur

Prepared by: Sarah Smith / E., U. & C. / (916) 651-4107
9/11/23 12:00:23

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

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

THIRD READING

Bill No: AB 1207
Author: Irwin (D), et al.
Amended: 9/8/23 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 8-2, 7/3/23
AYES: Roth, Nguyen, Archuleta, Ashby, Becker, Glazer, Wahab, Wilk
NOES: Eggman, Niello
NO VOTE RECORDED: Alvarado-Gil, Dodd, Smallwood-Cuevas

SENATE APPROPRIATIONS COMMITTEE: 5-1, 9/1/23
AYES: Portantino, Jones, Ashby, Seyarto, Wahab
NOES: Wiener
NO VOTE RECORDED: Bradford

ASSEMBLY FLOOR: 61-0, 5/25/23 - See last page for vote

SUBJECT: Cannabis: labeling and advertising

SOURCE: Author

DIGEST: This bill establishes various requirements for packaging, labeling, advertising and manufacturing cannabis or cannabis related products, as specified.

Senate Floor Amendments of 9/8/23 add language to address a chaptering issue and delete the proposed restriction on advertising that is attractive to children.

ANALYSIS:

Existing law:

1) Establishes the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of both medicinal cannabis and adult-use

cannabis. (Business and Professions Code (BPC) § 26000)

2) Establishes the Department of Cannabis Control (DCC), under the jurisdiction, of the Business, Consumer Services, and Housing Agency, to administer and regulate provisions of MAUCRSA. (BPC § 26010). Requires the DCC to make and prescribe reasonable rules and regulations as may be necessary to implement, administer, and enforce its duties, which must be consistent with the purpose and intent of the Control, Regulate and Tax Adult Use of Marijuana Act. (BPC § 26013)

3) Requires cannabis and cannabis products to be labeled and placed in a tamper-evident, child-resistant package and include a unique identifier for the purposes of identifying and tracking prior to delivery or sale at a retailer. Requires package must be re-sealable if the product contains more than one serving. (BPC § 26120(a))

4) Requires the DCC to promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured cannabis products, as specified. (BPC § 26130(a))

5) Prohibits a licensee from advertising or marketing cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products; publish or disseminate advertising or marketing that is attractive to children; or, advertise or market cannabis or cannabis products within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, playground, or youth center. (BPC § 26152(e)(f)(g))

This bill:

1) Prohibits a manufacturer, distributor, or seller of cannabis or cannabis products from manufacturing, distributing, or selling any cannabis or cannabis related product or any packaging or labeling that is attractive to children. Defines "attractive to children" to mean any of the following:

    a) Use of images that are attractive to children, including, but not limited to images of any of the following, except as part of required health warnings, cartoons, toys, or robots; any real or fictional human beings; any fictional animals or creatures and; fruits or vegetables, except when used to accurately describe ingredients or flavorings.

b) Any likeness to images, characters, or phrases that are popularly used to advertise to children.

c) Any imitation of candy packaging or labeling , or other packaging and labeling of cereals, sweets, chips, or other food products typically marketed to children.

d) The terms “candy” or “candies” or variants in spelling such as “kandy” or “kandee.”

e) Brand names or close imitations of brand names or candies, cereals, sweets, chips, or other food products typically marketed to children.

f) Any other image or packaging that is easily confused with commercially available foods that do not contain cannabis and are typically marketed to children.

g) Anything else that the DCC determines in regulation to be attractive to children.

h) Anything else that is attractive to children in light of all relevant facts and circumstances.

2) Requires the DCC to adopt emergency regulations, as specified.

Background

In addition to the robust licensing, transporting, testing, cultivating and enforcement provisions of MAUCRSA, there are very strict labeling and packaging requirements for cannabis and cannabis products. Language enacted as part of the original Medical Cannabis Regulation and Safety Act (MCRSA) legislation in 2015, required standards for cannabis packaging and labeling, including specific cautionary statements. Proposition 64 then codified nearly identical language for its own mandated label content, with a handful of minor variations reconciled when SB 94 (Committee on Budget and Fiscal Review) merged MCRSA and the Control, Regulate and Tax Adult of Marijuana Act (AUMA) into MAUCRSA. Under current law, all cannabis product labels must display the following statement in bold print:

> GOVERNMENT WARNING: THIS PRODUCT CONTAINS CANNABIS, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS PRODUCTS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.

The DCC's regulations specifically prohibit the labels of cannabis goods from containing content that is attractive to individuals under the age of 21, using the same criteria as provided in the DCC's regulations pertaining to advertising restrictions. This includes a ban on labeling that uses depictions of minors, cartoons, candy packaging, or other images popularly used to advertise to children. In addition, cannabis products must be marked with a universal symbol, established by the DCC through regulations.

Current law (BPC § 26120(b)) prohibits packages and labels for cannabis goods from being made "attractive to children". However, there is not a current definition of "attractive to children" in statute, which has required the DCC to promulgated regulations to identify what types of labeling or packaging could be viewed as "attractive to children". This bill incorporates a new statutory definition of "attractive to children" within MAUCRSA, which will be applied to prohibitions on labeling, advertising, and manufacturing of cannabis or cannabis products that are "attractive to children" within the new definition. The proposed definition blends a portion of the current language contained in the DCC's regulations and expands the content restrictions for those images or words that will be prohibited on product labels or in advertisements.

The proposed definition includes toys and robots in addition to cartoons, real or fictional humans, fictional animals or creatures, close representations to brand names or foods like cereals and chips, or food products typically marketed to children, along with any other image or packaging that is easily confused with commercially available foods that do not contain cannabis. The definition also includes anything else the DCC determines in regulation to be attractive to children. Existing law, (Business and Professions Code Section 26120(b)), already prohibits packages and labels from being made attractive to children, and subjects violators to enforcement by the DCC.

Supporters note that this new definition is necessary, as many of the cannabis products on the market today clearly resemble candies, cereal boxes and other treats or provide cartoon characters that look consistent with those that might be available in a candy or cereal aisle at a local grocery store or corner market.

Edible cannabis products come in a variety of consumable options. As noted on the DCC's website, edible cannabis products are consumed by mouth and resemble traditional food and beverages, including: baked goods, candies and sweets, mints, drink additives, and drinks. The edible cannabis products must meet the current requirements for packaging and labeling and be in a tamper-evident and child-resistant package.

The CDPH recently reported that the number of calls to California Poison Control about marijuana exposure among children has increased since 2018. In October of 2021, California Attorney General Bonta issued a consumer alert addressing issues of cannabis-infused edibles being packaged and sold as copycat versions of popular food and candy products. As noted in the October alert,

> These illegal and unregulated edibles may contain dangerously high-levels of THC and be sold in packaging nearly identical to those of popular brands, such as Cheetos, Fruity Pebbles, and Sour Patch Kids…While cannabis-infused edibles packaged to look like our favorite brands may seem harmless and fun, the dangers of consuming unregulated and untested cannabis products are high, particularly for children and teens…

By expanding the definition of "attractive to children" in statute, this bill is attempting to capture the problems raised above; however, it is unclear if these are all products purchased from the licensed cannabis market or if they are products found in the unlicensed market. For unlicensed products, this bill doesn't have an effect, as unlicensed cannabis cultivators, manufacturers, retailers distributors are already in violation of the law.

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

According to the Senate Appropriations Committee:

- DCC reports costs of approximately $2.8 million in the first year and $2.5 million ongoing for 16.0 permanent staff (8.0 Special Investigators, 2.0 Attorneys, 4.0 Associate Governmental Program Analysts, and 1.0 Staff Services Manager I) to investigate claims that non-licensees are advertising

products that are attractive to children and take action when there are violations (Cannabis Control Fund). Costs include workload related to complaint intake, conducting investigations, providing public outreach and education, tracking and processing administrative citations and appeals, preparing discovery documents, and assisting with hearings.

DCC notes that current advertising rules regarding attractiveness to children only apply to licensees. Therefore, the provisions of this bill prohibiting advertisers of cannabis or cannabis products, rather than cannabis licensees, from advertising or marketing in ways that are attractive to children would be a significant expansion of the enforcement responsibilities of the DCC against non-licensees.

- The California Department of Tax and Fee Administration (CDTFA) estimates unknown, potentially significant annual revenue loss ranging from zero to $124 million from reduced sales and use tax from the sale of cannabis products that would be prohibited under this bill. Actual revenue loss is variable and will depend on the extent that customers would purchase alternative cannabis products in lieu of prohibited products.

  CDTFA notes that in April 2023, the most recent month for which data are available, 11.3 percent of cannabis sales by value were of products containing the word "candy," "candies," "kandy," "kandee," "cake," "gelato," "ice cream," or "cookie." In 2022, California State cannabis tax revenues totaled approximately $1.1 billion. Assuming that approximately 11.3 percent of cannabis total cannabis tax revenues are collected on the sale of these products, their tax revenues totaled approximately $124 million in 2022, which represents an upper bound on this bill's revenue loss.

SUPPORT: (Verified 9/8/23)

American Academy of Pediatrics, California
Bay Area Community Resources
Be the Influence
California Chapter of the American College of Emergency Physicians
California Society of Addiction Medicine
California State Parent Teacher Association
Charles Abbott Associates
City of Carlsbad
City of Chula Vista
City of Encinitas
City of San Marcos

City of Solana Beach
Coastal Communities Drug Free Coalition
County Health Executives Association of California
County of Los Angeles Board of Supervisors
County of Marin
County of San Diego
County of Santa Barbara
Fighting Back Santa Maria Valley
Future Leaders of America
Good Samaritan Shelter
Helpline Youth Counseling, Inc.
Hermosa Coalition for Drug-Free Kids
High Truths on Drugs and Addiction
Institute for Public Strategies
Marin Healthy Youth Partnerships
Marin Residents for Public Health Cannabis Policies
Moms Strong
National Asian Pacific American Families Against Substance Abuse
North Coastal Prevention Coalition
Public Health Advocates
Public Health Institute
Pueblo Y Salud, Inc.
SafeLaunch
San Marcos Prevention Coalition
SCCAM-Shasta Siskiyou Lassen County Citizens Against Marijuana
Shasta County Chemical People, Inc.
Social Model Recovery Systems
Sonoma County Democratic Party
Stanford Reach Lab Youth Action Board
The Meadows Behavioral Health
The West Contra Costa Alcohol Policy Coalition
Wellness Retreat Recovery Center
Youth Forward

OPPOSITION: (Verified 9/8/23)

Big Sur Farmers Association
California Cannabis Industry Association
California NORML
Humboldt County Growers Alliance
Mendocino Cannabis Alliance

Nevada County Cannabis Alliance
Origins Council
Pacific Stone
San Diego Regional Chamber of Commerce
Trinity County Agriculture Alliance
Weedmaps

ARGUMENTS IN SUPPORT: Supporters note generally that this bill will help address the issue of cannabis products being attractive children by more clearly prohibiting products, packaging, and marketing that is attractive to children that imitates foods or items typically marketed to children.

ARGUMENTS IN OPPOSITION: Opponents note generally that this bill will increase costs for licensed cannabis retailers and will have limited impact on the illicit market who may use deceptive marketing targeted to children.

ASSEMBLY FLOOR: 61-0, 5/25/23
AYES: Addis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Davies, Dixon, Essayli, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Ting, Valencia, Villapudua, Waldron, Ward, Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Aguiar-Curry, Alanis, Chen, Megan Dahle, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Papan, Jim Patterson, Joe Patterson, Pellerin, Sanchez, Soria, Ta, Wallis, Zbur

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
9/11/23 17:59:38

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

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

THIRD READING

Bill No: AB 1228
Author: Holden (D)
Amended: 9/11/23 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/28/23
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas
NOES: Wilk

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/12/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 42-22, 5/31/23 - See last page for vote

SUBJECT: Fast food restaurant industry: Fast Food Council: health, safety, employment, and minimum wage

SOURCE: Author

DIGEST: This bill repeals, revises and recasts provisions of the Fast Food Accountability and Standards Recovery Act (FAST Act) to codify changes that have been negotiated and agreed to by both proponents and opponents (seeking a referendum) of AB 257 (Holden, 2022) but only if the referendum is withdrawn by January 1, 2024.

ANALYSIS:

Existing law:

1) Establishes the Division of Occupational Safety and Health (known as Cal/OSHA) within the Department of Industrial Relations (DIR) to, among other things, protect and improve the health and safety of workers by proposing, administering, and enforcing occupational safety and health standards. (Labor Code §140 et seq.; §6300 et seq.)

2) Establishes, also within DIR, the Division of Labor Standards and Enforcement (DLSE) under the direction of the Labor Commissioner (LC), with the duty to investigate employee complaints and enforce labor laws. (Labor Code §79 et seq.)

3) Establishes the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act (FAST Act) to, among other things, create the Fast Food Council within DIR for the purpose of establishing sectorwide minimum standards on wages, working hours, and other working conditions adequate to ensure and maintain the health, safety, and welfare of, and to supply the necessary cost of proper living to, fast food restaurant workers, as specified. (Labor Code §1470-1473)

4) Defines, for purposes of these provisions, the following:

   a) "Fast food chain" means a set of restaurants consisting of *100 or more establishments* nationally that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services.

   b) "Fast food restaurant" means any establishment in the state that is part of a fast food chain and that, in its regular business operations, primarily provides food or beverages in the following manner:

      i) For immediate consumption either on or off the premises.
      ii) To customers who order or select items and pay before eating.
      iii) With items prepared in advance, including items that may be prepared in bulk and kept hot, or with items prepared or heated quickly.
      iv) With limited or no table service. Table service does not include orders placed by a customer on an electronic device. (Labor Code §1470)

5) Establishes, until January 1, 2029, the Fast Food Council (Council) as a 10-member council, comprising of fast food employees, worker advocates, franchisors, franchisees, and government officials within DIR and the Governor's Office of Business and Economic Development (Go-Biz) to provide direction to, and coordinate with, the Governor, executive and local agencies regarding the health, safety, and employment of fast food restaurant workers. (Labor Code §1471)

6) Prohibits the Fast Food Council from promulgating, petitioning for, issuing, amending, or repealing, any standards, rules, or regulations, as specified, until after the Director of DIR receives a petition approving the creation of the

Council signed by at least 10,000 California fast food restaurant employees. (Labor Code §1471)

7) Provides that any minimum wage established by the Council shall, from January 1, 2023, to December 31, 2023, inclusive, *not be greater than twenty-two dollars ($22) per hour* and provides that, on January 1, 2024 and annually thereafter, the highest hourly minimum wage that may be established by the council shall increase by no more than the lesser of one of the following, rounded to the nearest ten cents ($0.10):

   a) 3.5 percent.
   b) The rate of change in the annual United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W), as specified. (Labor Code §1471)

8) Provides that, to the extent that any minimum standards that the Council finds are reasonably necessary fall within the jurisdiction of the Occupational Safety and Health Standards Board, the Council is not authorized to promulgate the standards but rather shall petition the board to adopt, amend, or repeal any relevant standards. (Labor Code §1471)

9) Requires the Council to conduct a full review of the adequacy of the minimum fast food restaurant health, safety, and employment standards at least once every three years and, upon that review, make necessary changes and/or petitions for changes, as specified. (Labor Code §1471)

10) Authorizes a county, or a city with a population of greater than 200,000, to establish a Local Fast Food Council, as specified, to periodically hold public meetings, at which the public shall have the opportunity to be heard on issues of local fast food restaurant health, safety, and employment conditions. A Local Fast Food Council may provide written recommendations to the state Council that the Local Fast Food Council finds are reasonably necessary to protect the health, safety, and welfare of fast food restaurant workers. A Local Fast Food Council shall operate independently from the council. (Labor Code §1471)

11) Requires the LC, DSLE and Cal/OSHA to enforce the fast food restaurant standards promulgated by the Council, including investigating an alleged violation and ordering remedies, through the procedures set forth in existing law, as specified. (Labor Code §1471)

12) Provides that a standard promulgated by the Council shall not supersede a standard covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and a regular hourly rate of pay not less than 30 percent more than the state minimum wage for those employees, as specified. (Labor Code §1471)

13) Provides that on January 1, 2029, the provisions creating the Council and its authorities shall become inoperative, and the council shall cease operations. (Labor Code §1471)

14) Prohibits a fast food restaurant operator from discharging or in any manner discriminating or retaliating against any employee for, among other things, making a complaint or disclosing information to a person with authority to investigate alleged violations, to the media, to the Legislature, or to a watchdog or community based organization, or a governmental agency regarding employee or public health or safety. Also protects employees refusing to work in violation of public health and safety laws, as specified. (Labor Code §1472)

15) Provides that any employee discharged or otherwise discriminated or retaliated against, as specified, shall have a right of action with specified remedies. Additionally, includes a rebuttable presumption of unlawful discrimination or retaliation if a fast food operator discharges or takes any other adverse action against an employee within 90 days of the operators' knowledge that the employee took any of the protected actions specified in (14) above. (Labor Code §1472)

16) Pursuant to a referendum petition, the provisions of the FAST Recovery Act have been suspended and are effective only if approved as a referendum measure at the November 5, 2024 election.

This bill:

1) Repeals existing provisions of the FAST Recovery Act, Sections 1470, 1471, 1472, and 1473, revises and recasts these provisions to make several changes to the Act but only if Referendum No. 1939 (Attorney General No. 22-0005) has been withdrawn by its proponents by January 1, 2024.

2) Provides various relevant definitions, including, among others, the following:

a) "National fast food chain" means a set of limited-service restaurants consisting of more than *60 establishments* nationally (was previously 100) that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services, and which are primarily engaged in providing food and beverages for immediate consumption on or off premises where patrons generally order or select items and pay before consuming, with limited or no table service. For purposes of these definitions, "limited-service restaurant" includes, but is not limited to, an establishment with the North American Industry Classification System Code 722513.
b) "Fast food restaurant" means a limited-service restaurant in the state that is part of a national fast food chain. Exempts from this definition, an establishment operating as a bakery that produces bread for sale on the establishment's premises, as specified.

    i) *These definition updates do not change the nature of which fast food/quick service restaurants are covered and retains much of the existing definitions in the FAST Act.*

3) Consistent with the existing FAST Act, specifies that the Council's purposes are to establish *fast food restaurant minimum standards* on wages, and develop fast food restaurant minimum standards on working hours, and other working conditions adequate to ensure and maintain the health, safety, and welfare of, and to supply the necessary cost of proper living to, fast food restaurant workers and to ensure and effect interagency coordination and prompt agency responses regarding issues affecting the health, safety, and employment of fast food restaurant workers.

4) Modifies the composition of the Council to reduce its size form ten to nine members and remove the agency representatives (one from DIR and one from Go-Biz) as voting members of the Council and instead adds one unaffiliated member of the public to the Council, as specified. One representative from DIR and one representative from Go-Biz shall be nonvoting members of the Council.

5) Provides that the unaffiliated member of the public shall be the chairperson of the Council.

6) Specifies that the Council shall provide direction to, and coordinate with, state agencies regarding the health, safety and employment of fast food restaurant

workers – striking (from the existing FAST Act) references to coordinating with the Governor and local agencies.

7) Strikes provisions from the existing FAST Act that would have required a petition signed by at least 10,000 California fast food restaurant employees before the Council could promulgate, petition for, issue, amend, or repeal any standards, rules or regulations.

8) Requires the Council to convene its first meeting by no later than March 15, 2024.

9) In developing minimum fast food restaurant employment standards, authorizes the Council to take account of regional difference.

10) Strikes from the existing FAST Act, the Council's sole authority to promulgate minimum fast food restaurant standards to instead include state agency involvement by specifying that all standards, rules and regulations developed by the Council shall be issued, amended, or repealed per existing Administrative Procedure Act rulemaking provisions and subject to the following:

    a) With the exception of standards regarding the minimum wage, specifies that the Labor Commissioner shall be responsible for issuing, amending, or repealing, as applicable, standards developed by the Council, as specified.
    b) Requires the Council to send proposed written standards to the LC and request that the commissioner prepare a notice of proposed rulemaking action.
    c) Upon receiving such request, the LC shall determine whether the proposed written standards are consistent with the council's authority and rulemaking law, as specified, and if it so, the LC shall prepare and submit to the Office of Administrative Law a notice of proposed rulemaking action, as specified.

11) Provides that, if the LC determines that the proposed standards are not consistent with the council's authority or do not meet the rulemaking criteria, the LC shall, within 60 days of receiving the council's rulemaking request, provide the council with a written explanation of the reasons for that determination and allows the council to modify its proposal as appropriate.

12) Grants the LC responsibility and authority to carry out the specified rulemaking requirements per Sections 11346.8 and 11346.9 of the Government Code.

13) Strikes from the existing FAST Act, provisions requiring the Council to submit, to the appropriate committees on labor of each house of the Legislature, a report that contains a copy of proposed standards, repeals, or amendments and a statement of the council's reasons for adopting them by January 15 and prohibition on those going into effect before October 15 of that same year. Also strikes provisions specifying that nothing restrains the Legislature from enacting legislation that prevents a standard, repeal, or amendment from taking effect.

14) Maintains the requirement in the FAST Act that the Council provide information as requested by the appropriate committees of the Legislature on labor to facilitate a review of the council's performance and standards, which review may be conducted in a joint hearing held every three years or as otherwise designated by the appropriate committees of the Legislature on labor.

15) Modifies the minimum wage provisions in the FAST Act to specify that, effective April 1, 2024, the hourly minimum wage for fast food restaurant employees shall be twenty dollars ($20) per hour. Thereafter, and only until January 1, 2029 when the Council ceases to operate, provides that the Council *may* establish annual fast food restaurant employee minimum wage increases as follows:

    a) No more than the lesser of the following, rounded to the nearest ten cents ($0.10):

        i) 3.5 percent; or
        ii) The rate of change in the annual United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W), as specified.

16) In establishing the annual minimum wage increases, authorizes the Council to elect to set minimum standards that vary by region or to set a statewide minimum wage increase.

17) Specifies that the minimum wage for fast food restaurant employees shall be enforced by the LC through the existing enforcement procedures of the Labor Code, or by a covered worker through a civil action, through the same means and with the same relief available for violations of any other state minimum wage requirement.

18) Requires DIR to update specified wage orders to be consistent with any minimum hourly wage adopted by the council and any other standards or requirements developed by the Council and adopted by the LC, as specified, except that any existing provisions providing greater protections or benefits shall continue in full force and effect.

19) Strikes provisions in the FAST Act requiring annual increases to the minimum wage, as specified, after January 1, 2029 when the Council is no longer operative.

20) Prohibits the Council from establishing any minimum wage increase that takes effect commencing on a date after the 2029 calendar year (when the provisions of the Council become inoperative), however, authorizes the Council to provide advice to any appropriate state agencies regarding minimum wage increases that would take effect commencing on a date on or after January 1, 2030.

21) Adds provisions specifying that to the extent that any minimum standards that the Fast Food Council finds are necessary fall within the jurisdiction of the Civil Rights Council, as defined, the Fast Food Council shall petition the Civil Rights Council for the adoption, amendment, or repeal of any such regulation.

22) Requires the Civil Rights Council to consider and respond to the petition no later than six months following receipt of the petition, or within no more than three months if the petition relates to an emergency, as defined, and prohibits the Civil Rights Council from adopting a recommended standard that would reduce protections provided under the California Fair Employment and Housing Act or other law within the Civil Rights Council's jurisdiction.

23) Maintains from the FAST Act, provisions specifying that the Council does not have the authority to create or amend statutes; can't set regulations creating new paid time off benefits, such as paid sick leave or paid vacation, or predictable scheduling.

24) Strikes from the FAST Act, provisions authorizing a county, or a city with a population of greater than 200,000, to establish a Local Fast Food Council to hold public meetings and provide written recommendation to the state Council regarding minimum health, safety and employment standards that the local council finds necessary but maintains local coordination provisions, outlined in (25) below.

25) Modifies FAST Act provisions around local agency meetings, to specify that the Council may coordinate with local agencies and *request* that they hold public meetings or hearings, at which the public, including fast food restaurant employees, shall have the opportunity to be heard on issues of fast food restaurant health, safety, and employment conditions. After these meetings or hearings, the Council may request information from the local agencies, including any recommendations for action by the council.

26) Maintains existing Labor Commissioner enforcement provisions, as specified, and remedies for violations as currently found in the FAST Act.

27) Provides that the Labor Commissioner is authorized to issue any other rules, regulations, and guidance necessary for the enforcement of these provisions, as specified.

28) Preempts any local municipalities from establishing higher minimum wages, by prohibiting any ordinance or regulation applicable to fast food restaurant employees that sets the amount of wages or salaries for fast food restaurant employees from being enacted or enforced by any city, county, or city and county, including charter cities, charter counties, and charter cities and counties. However, these provisions do not preclude any employer from establishing higher wage or compensation rates for its employees or contracted employees.

29) Specifies that the above prohibition does not preclude a city, county, or city and county, including charter cities, charter counties, and charter cities and counties, from establishing a minimum wage that is generally applicable to all industries.

30) Specifies that all provisions, with some exceptions, become inoperative as of January 1, 2029 (consistent with the existing FAST Act provisions) and the Council shall cease operations but specifies that any standards adopted by the

appropriate agencies pursuant to these provisions shall not be impacted by the cessation of the Council.

31) Modifies but maintains provisions around unlawful discharge or discrimination of employees, to specify that, consistent with existing Labor Code protections, a fast food restaurant operator shall not discharge or in any manner discriminate or retaliate against any employee due to the employee's participation in or testimony to any proceeding convened by the Council, as specified. The bill also deems the Council a governmental agency for purposes of these prohibitions.

32) Strikes from the FAST Act, provisions granting any employee of a fast food restaurant operator discharged or otherwise discriminated or retaliated against a right of action and prescribed remedies for such violations.

33) Strikes from the FAST Act, a rebuttable presumption of unlawful discrimination or retaliation if a fast food restaurant operator discharges or take any adverse employment action against one of its employees within 90 days following the date when the operator had knowledge of that employee's action or actions, as specified.

34) Specifies that these new provisions of the FAST Act shall become operative and shall take effect commencing January 1, 2024, only if Referendum No. 1939 (Attorney General No. 22-0005) has been withdrawn by its proponents by January 1, 2024. If that referendum has not been withdrawn by its proponents by January 1, 2024, these new provisions shall become inoperative on January 1, 2024, and as of that date, are repealed.

35) Finds and declares that establishing uniform statewide regulation of certain aspects of minimum wage for fast food restaurant workers is a matter of statewide concern and directs specified provisions to apply to all cities, including charter cities.

Background

AB 257 (Holden, Chapter 246, Statutes of 2022) enacted the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act. Not long after AB 257 was signed by the Governor, a coalition of California small business owners, restauranteurs, franchisees and related entities, organized as Save Local Restaurants, submitted a referendum petition challenging AB 257. AB 257 was set

to go into effect on January 1, 2023 before a Sacramento judge put it on hold on December 30, 2022 in response to a lawsuit filed by fast-food industry group Save the Restaurants seeking to halt the law from going into effect before it could collect 1 million petition signatures to qualify the referendum.

On January 24, 2023, the California Secretary of State completed its verification process and qualified the referendum (Referendum No. 1939 (Attorney General No. 22-0005)) for the November 5, 2024 ballot. The law will not take effect unless it is approved by voters in the November 2024 election.

This bill codifies an agreement that has been reached between the proponents of AB 257 and opposition (Save Local Restaurants – seeking the referendum of AB 257) that would repeal the existing FAST Act provisions, revise and recast them but only if the AB 257 referendum has been withdrawn by its proponents by January 1, 2024.

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information and information on prior and related legislation.]

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

According to the Senate Appropriations Committee, assuming Referendum No. 1939 (Attorney General No. 22-0005) has been withdrawn by its proponents by January 1, 2024, this bill would have the following fiscal impacts:

- The Department of Industrial Relations (DIR) preliminarily estimates that, at a minimum, it would incur net annual administrative costs of $4 million to implement the provisions of the bill. Cost drivers would include staffing the Fast Food Council, legal workload, and operational costs resulting from internal and public meetings (Labor Enforcement and Compliance Fund, and Occupational Safety and Health Fund).

- This bill would result in one-time General Fund savings to the Secretary of State (SOS) for reduced printing and mailing costs resulting from the referendum's removal from the statewide ballot. SOS estimates that each additional page in the statewide ballot pamphlet costs $123,000. Assuming eight pages would have been needed for the referendum, savings to SOS would be $984,000.

- Administrative costs to the Civil Rights Council, within the California Civil Rights Department, have yet to be identified, and would depend on future interaction with the Fast Food Council (General Fund).

SUPPORT: (Verified 9/13/23)

Action Center on Race and the Economy
Amigos de Guadalupe Center for Justice and Empowerment
California Alliance for Retired Americans
California Conference of Carpenters
California Rural Legal Assistance Foundation
CARAS Gilroy
Clergy and Laity United for Economic Justice
Fight for $15
Indivisible CA: StateStrong
International Franchise Association
Media Alliance
National Restaurant Association
North Bay Jobs with Justice
PowerSwitch Action
Santa Cruz Climate Action Network
Save Local Restaurants
SEIU California
Silicon Valley Rising Action
United for Respect
Working Partnerships USA
Worksafe

OPPOSITION: (Verified 9/13/23)

American Association of Franchisees and Dealers
Coalition of Franchisee Associations

ARGUMENTS IN SUPPORT: According to a coalition of labor and community advocates, "for the last decade, fast-food cooks, cashiers and baristas in California have been sounding the alarm on the poverty pay and unsafe working conditions plaguing the industry. Fast-food workers and community allies across the state have demanded that workers get a seat at the table to resolve these critical issues." They argue that "new amendments to AB 1228, the Fast Food Franchisor Responsibility Act, were introduced to build on what was won under AB 257. Contingent upon the fast-food industry dropping their referendum against AB 257,

the amendments to AB 1228 clear the path for fast-food workers to start making much-needed improvements to their wages and working conditions."

According to the International Franchise Association, the National Restaurant Association and Save Local Restaurants, this agreement reflects the best interest of workers, local franchised restaurant owners and restaurant brands by: 1) protecting the franchise business model that provides opportunities for thousands of diverse Californians to become small business owners; 2) provides meaningful wage increases for workers; and 3) eliminates significant – and potentially existential – threats, costs, and regulatory burdens targeting local restaurants in California.

ARGUMENTS IN OPPOSITION: The American Association of Franchisees and Dealers writes in opposition arguing, "In significant disregard to hearing the voices of small business franchisee owners, the negotiated settlement was made between the International Franchise Association (IFA), the National Restaurant Association (NRA), and the Service Employees International Union (SEIU). If signed, the result would be onerous to the franchisee community who would have to bear the primary brunt of this settlement, which would not only significantly increase labor costs thereby forcing franchisees to increase costs to consumers; this, in turn, also benefits franchisors with a larger royalty base." They view this as a "prime example of behind-the-scenes political maneuvering, raising concerns about transparency and fairness."

ASSEMBLY FLOOR: 42-22, 5/31/23
AYES: Addis, Arambula, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Haney, Hart, Holden, Jackson, Jones-Sawyer, Kalra, Lee, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Schiavo, Ting, Ward, Weber, Wicks, Wood, Zbur, Rendon
NOES: Alanis, Bains, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Low, Mathis, Stephanie Nguyen, Jim Patterson, Joe Patterson, Ramos, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Aguiar-Curry, Alvarez, Bauer-Kahan, Juan Carrillo, Grayson, Irwin, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Blanca Rubio, Soria, Valencia, Villapudua, Wilson

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
9/13/23 19:33:34

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

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

THIRD READING

Bill No: AB 1291
Author: McCarty (D)
Amended: 9/8/23 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE EDUCATION COMMITTEE: 5-0, 9/12/23
AYES: Newman, Ochoa Bogh, Cortese, McGuire, Wilk
NO VOTE RECORDED: Glazer, Smallwood-Cuevas

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/12/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

SUBJECT: University of California Associate Degree for Transfer Pilot Program

SOURCE: Author

DIGEST: This bill establishes the University of California (UC) Associate Degree for Transfer Pilot Program, commencing with the University of California, Los Angeles (UCLA), to prioritize admission of a student who earns an associate degree for transfer (ADT) from selected community colleges and to redirect a student who meets those requirements but is denied admission to the applicable campus and offer admission to at least one other campus.

ANALYSIS:

Existing law:

1) Establishes, under the California Constitution, the UC as a public trust to be administered by the UC Regents; and, grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to insure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts,

sales of property and the purchase of materials, goods and services. (Article IX, § (9)(a) of the California Constitution).

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

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

4) Requires the segments of higher education to develop an intersegmental common core curriculum in general education for the purpose of transfer. This common core curriculum is known as the Intersegmental General Education Transfer Curriculum (IGETC). Any student who completes the IGETC course pattern is deemed to have completed the lower division coursework required for transfer to the UC or the California State University (CSU). (EC § 66720)

5) Requests the UC to identify commonalities and differences in similar majors across all UC campuses and provide California Community College (CCC) students with the information in at least the top 20 majors. (EC § 66721.7)

6) Requests the UC Regents, on or before March 1 in each year from 2017 to 2022, inclusive, to submit an annual report to the Legislature, on the UC's data on student transfers and to beginning on or before March 1, 2019, in its report to include the same data points, on transfer students with a UC Transfer Pathway. (EC § 66721.9)

7) Requires the governing board of each public postsecondary education segment to be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (EC § 66738)

8) Establishes the STAR Act, which, in part, requires, commencing with the fall term of the 2011-2012 academic year, a student that receives an ADT to be deemed eligible for transfer into a CSU baccalaureate degree program when the student meets specified requirements. Requires a granting of this degree when a student accomplishes both of the following:

a) Completes 60 semester or 90 quarter units eligible for transfer to the CSU and that includes the CSU General Education Breadth program for IGETC, and a minimum of 18 semester or 27 quarter units in a major area of emphasis as determined by the district.
b) Obtains a minimum grade point average of 2.0. (EC § 66745, et seq.)

9) Requires the CSU and UC to jointly establish a singular lower division general education (GE) pathway for transfer admission into both segments, and also requires the CCC to place students who declare a goal of transfer on an ADT pathway for their intended major. Establishes the ADT intersegmental implementation committee to serve as the primary entity charged with oversight of the ADT. (EC § 66749.8)

ANALYSIS

This bill:

1) Establishes the UC ADT Pilot Program and requires UCLA to do both of the following:

   a) By the 2026-27 academic year, dedicate at least eight majors at UCLA as similar to the transfer model curricula from UCLA-selected community colleges and prioritize admission of a student who earns an ADT and meets the requirements of one of the transfer model curricula.

   b) By the 2028-29 academic year, declare at least 12 majors, with at least 4 of those 12 majors in the science, technology, engineering, and mathematics (STEM) fields, at UCLA as similar to the transfer model curricula from UCLA-selected community colleges and prioritize admission of a student who earns an ADT and meets the requirements of one of the transfer model curricula. The bill requires UCLA to make every effort to ensure that the transfer model curricula declared similar to the STEM majors do not require the completion of more than 60 semester units, and if one or more of the transfer model curricula do not meet this limit, UCLA is required to provide a written justification to the legislature as specified.

2) Requires, by the 2028-29 academic year, that the UC designate at least five campuses to declare at least 12 majors at the applicable campus as similar to the transfer model curricula from campus-selected community colleges (does not

apply to UC, Merced) and prioritize admission of a student who earns an ADT and meets the requirements of one of the transfer model curricula.

3) Requires that the applicable campus of the UC determine the appropriate admissions preference for a student who earns an ADT and meets requirements of one of the transfer model curricula prescribed in the bill.

4) Requires a campus to redirect a student who otherwise meets the requirements of the pilot program but is not granted admission to other UC campuses, where the student is to be offered admission to at least one other campus.

5) Requires, by February 1, 2027, the Legislative Analyst's Office (LAO) to review the pilot program and submit an interim report to the relevant policy and fiscal committees of the legislature on the pilot program, as specified.

6) Requires, by June 1, 2030, the LAO to review the pilot program, and submit a final report on the pilot program to the relevant policy and fiscal committees of the Legislature, and make the final report publicly available that includes the specified information, as well as recommendations on whether and how the pilot program can or should be extended or expanded. These recommendations are to take into consideration relevant information, including but not limited to all of the following:

    a) Factors such as negative impacts on student diversity or the freshman-to-transfer student ratio, as determined by the UC.
    b) The pilot program's impact on streamlining transfer pathways for community college students.
    c) Best practices from other similar programs, such as the UC, Merced Transfer Project.

7) Requires the UC Regents to consider and discuss the final report during an open session of a regularly scheduled meeting of the regents.

8) States that it is the intent of the Legislature that, by 2031-32 academic year, each undergraduate UC campus declare at least 12 majors and evaluate the possibility of declaring at least 16 majors at the respective campus as described.

Comments

1) *Need for the bill.* According to the author, "AB 1291 delivers on a long-standing goal in California: to simplify and streamline transfer paths for

hardworking, qualified community college students wishing to attend a UC or a CSU. Creating a universal transfer path will increase economic opportunity and prosperity for all Californians and help our state economy thrive."

2) *ADT benefits for students.* Since the enactment of SB 1440 (Padilla, Chapter 428, Statutes of 2010), the STAR Act, the ADT has made significant strides in streamlining the transfer process for students and has become a successful pathway to earning a bachelor's degree. Specifically, the Act requires CCC districts to develop and grant a transfer associate degree that deems the student eligible for transfer into the CSU when the student meets certain course requirements. Completion of an ADT guarantees a student:

   a) Admission with junior status to a CSU campus but not to a specific campus or major.

   b) No additional lower-division CSU coursework.

   c) No more than 60-semester units of upper-division CSU coursework to complete a bachelor's degree, in addition to the 60 units completed at community college, results in a 120-unit pathway to a bachelor's degree.

   d) Priority admission at CSU.

   On a lesser scale, this bill attempts to nudge UC in a similar direction. However, the California Constitution declares the UC an independent body governed by the UC Regents and retains the authority to manage all academic affairs (as noted in the background of this analysis). It is unclear to what extent UC can be compelled to comply with the provisions of this bill.

3) *ADT participation from other segments.* Since developing the ADT, the CCC system has also entered into transfer agreements with private nonprofit universities, some of which now also guarantee admission and junior standing to students with an ADT. As of October 2020, over 280,000 CCC students have earned an ADT and 41 ADT pathways exist at CCC. Since 2012, the percent of students transferring with the ADT has grown from 3 percent to 42 percent. In fall 2020, transfer students entering the CSU with an ADT represented nearly half of new community college transfers. More than half of ADT transfer students graduate from the CSU within two years and 83 percent within four years, compared to 76 percent who transferred with a traditional associate degree.

4) *UC Transfer Admission Programs.* UC has several transfer admission programs for CCC students, with more than 60 percent of transfer-students graduating from UC within two years and close to 90 percent in four years. This bill would presumably add to the list of UC transfer programs available to community college students. (See Senate Education Committee analysis for list of programs.)

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

According to the Senate Appropriations Committee analysis:

- The UC estimates ongoing General Fund costs of $1.5 million for 10 additional staff to support campus articulation officers. The UC also estimates one-time General Fund costs in the low millions of dollars for systemwide and campus policy updates and coordination, technology and systems upgrades, staff trainings, and communication and marketing strategy implementation.

- The California community colleges may incur additional one-time Proposition 98 General Fund costs to develop and implement the necessary revisions to transfer model curricula from UCLA and other participating UC campuses, and additional costs to update course catalogs and student advising practices and procedures. The extent of these costs is unknown and could be offset by reduced administrative burdens.

- The Chancellor's Office may incur one-time General Fund workload costs, likely to be minor, to make changes to the Program Course Approval Handbook and course inventory system and issue guidance. There could be also be ongoing General Fund workload costs potentially in the low tens of thousands of dollars each year to provide technical assistance and support implementation in coordination with the UC.

- Any costs for the LAO to comply with the bill's reporting requirements are likely to be minor and absorbable within existing resources.

SUPPORT: (Verified 9/13/23)

None received

OPPOSITION: (Verified 9/13/23)

None received

Prepared by: Olgalilia Ramirez / ED. / (916) 651-4105
9/13/23 18:28:18

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

SENATE RULES COMMITTEE AB 1317
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1317
Author: Wendy Carrillo (D), et al.
Amended: 9/8/23 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 8-2, 7/6/23
AYES: Umberg, Allen, Ashby, Durazo, Laird, Min, Stern, Wiener
NOES: Wilk, Niello
NO VOTE RECORDED: Caballero

ASSEMBLY FLOOR: 54-18, 5/31/23 - See last page for vote

SUBJECT: Unbundled parking

SOURCE: SPUR
Streets for All

DIGEST: This bill requires property owners of "qualifying residential properties," new multi-family properties in 10 specified counties, to unbundle the cost of parking from the cost of the rent.

Senate Floor Amendments of 9/8/23 detail the legal remedies for a tenant's failure to pay the parking fee and exempt specified affordable housing properties.

ANALYSIS:

Existing law:

1) Requires a multifamily residential project certified for streamlining pursuant to the California Environmental Quality Act on an infill site to provide unbundled parking, such that private vehicle parking spaces are priced and rented or purchased separately from dwelling units. (Pub. Res. Code § 21184.5.)

2) Prohibits a public agency from imposing or enforcing any minimum parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of public transit. (Gov. Code § 65863.2.)

This bill:

1) Requires an owner of a qualifying residential property, if the owner provides parking with the property, to unbundle parking from the price of rent.

2) Requires all off-street parking spaces be unbundled from the qualifying residential property for the life of the property.

3) Defines ”qualifying residential property” as any dwelling or unit that is intended for human habitation that meets all of the following criteria:

   a) the property is issued a certificate of occupancy on or after January 1, 2025;

   b) the property consists of 16 or more residential units; and

   c) the property is located in one of the following counties:

      i) Alameda
      ii) Fresno
      iii) Los Angeles
      iv) Riverside
      v) Sacramento
      vi) San Bernardino
      vii) San Joaquin
      viii) Santa Clara
      ix) Shasta
      x) Ventura

4) Excludes a residential property or unit with an individual garage that is functionally a part of the property or unit, including townhouses and row houses; specified low-income housing developments; and developments financed with tax-exempt bonds pursuant to programs administered by the California Housing Finance Agency.

5) Defines “owner of qualifying residential property” as any person, acting as principal or through an agent, having the right to offer qualifying residential

property for rent, and includes a predecessor in interest to the owner. "Unbundled parking" means the practice of selling or leasing parking spaces separate from the lease of the residential property.

6) Prohibits off-street parking accessory to a qualifying residential property from being included in any residential rental agreement and requires it to be subject to a rental agreement addendum or provided in a separate rental agreement.

7) Provides a tenant of a qualifying residential property the right of first refusal to parking spaces built for their property. Authorizes remaining residential unbundled parking spaces to be leased by the owner to other on-site users or to off-site residential users on a month-to-month basis. Spaces built subsequent to move in shall first be offered to tenants.

8) Prohibits a tenant's failure to pay the parking fee pursuant to a separately leased parking agreement from forming the basis of any unlawful detainer action against the tenant. If a tenant fails to pay by the 45th day following the date payment is owed for a separately leased parking space, the property owner may revoke that tenant's right to lease that parking spot.

Background

Parking spaces included in residential properties' rent hide the true cost of parking and create other economic and environmental impacts. Concerns have arisen that on-site parking takes up valuable land that could otherwise be used for more housing, results in overreliance on motor vehicles, and creates an inflation in housing costs that represents a barrier to housing for low-income tenants.

This bill seeks to address these issues by requiring "unbundled parking." Property owners of multi-family properties with 16 units or more that are issued a certificate of occupancy on or after January 1, 2025, in 10 specified counties across the state, are required to unbundle the cost of parking from the rent of the residential unit. This bill requires that tenants be given the right of first refusal to any parking spaces available.

This bill is sponsored by SPUR and Streets for All and is supported by numerous public transportation and housing advocates, including California YIMBY. It is opposed by Livable California.

Comments

According to the author:

> Property owners often provide 'free parking' as part of a lease. However, when parking is 'free,' people bear the cost regardless of whether they use the parking. Furthermore, 'free parking' disincentives public transit use and promotes automobile reliance. According to UCLA, households with bundled parking drive 3,800 miles more, spend $580 more on gasoline, and emit an additional metric ton of carbon dioxide annually. AB 1317 would allow tenants in qualifying residential properties to purchase parking as an optional expense, increasing housing affordability while reducing traffic congestion, car dependency, and carbon emissions. This bill is a well-tailored and cost-effective approach to alleviating the State's dual housing and climate crisis, all while giving tenants greater flexibility and promoting equity.

The author points to a series of studies that support the conclusion that bundled parking comes at a cost to both housing affordability and environmental impacts.

An article in the Journal of the American Planning Association discussed the quantitative evidence, which suggests a price effect of unbundled parking:

> Converted back into dollars, the statistically significant coefficients suggest that bundled parking is associated with a $22 per square foot increase in the asking price of a unit, other variables held constant. An apartment with bundled parking is associated with $200 more in asking rent, and bundled parking with a condo is associated with a $43,000 increase in asking price.[1]

Another study explores the hidden costs of bundled parking in major cities across the country; it explains its methodology and conclusion:

> The relationship between parking and housing prices, however, remains poorly understood. We use national American Housing Survey data and hedonic regression techniques to investigate this relationship. We find that the cost of garage parking to renter

[1] Michael Manville, *Parking Requirements and Housing Development* (2013) Journal of the American Planning Association, Winter 2013, Vol. 79, No. 1.

> households is approximately $1,700 per year, or an additional 17% of a housing unit's rent. In addition to the magnitude of this transport cost burden being effectively hidden in housing prices, the lack of rental housing without bundled parking imposes a steep cost on carless renters— commonly the lowest income households—who may be paying for parking that they do not need or want. We estimate the direct deadweight loss for carless renters to be $440 million annually. We conclude by suggesting cities reduce or eliminate minimum parking requirements, and allow and encourage landlords to unbundle parking costs from housing costs.[2]

This bill addresses these issues by decoupling rents for specified units from any associated parking spaces. This bill prohibits an owner from a "qualifying residential property" from bundling parking with the price of rent. However, it also ensures that any available spaces are first provided to tenants of the property. If spaces are subsequently made available, tenants are required to be provided the right of first refusal.

The definition of "qualifying residential property" substantially limits the impact of this bill on landlords. First, this bill only applies to larger properties with at least 16 units. This prevents any hardships on smaller property owners.

Second, qualifying properties are only new buildings with certificates of occupancy issued January 1, 2025 or later. This prevents any compliance issues for existing rental properties and provides ample runway for owners to prepare for the unbundling. It also excludes specified affordable housing developments.

Finally, this bill only applies to such properties located in the following 10 counties:

- Alameda
- Fresno
- Los Angeles
- Riverside
- Sacramento
- San Bernardino
- San Joaquin

---

[2] C. J. Gabbe & Gregory Pierce, *Hidden Costs and Deadweight Losses: Bundled Parking and Residential Rents in the Metropolitan United States* (2017) Housing Policy Debate, Vol. 27:2, 217-229.

- Santa Clara
- Shasta
- Ventura

This will allow the Legislature to assess whether this approach is appropriate elsewhere in the state.

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

SUPPORT: (Verified 9/8/23)

SPUR (co-source)
Streets For All (co-source)
Abundant Housing LA
Active San Gabriel Valley
CalBike
California Community Builders
California YIMBY
Circulate San Diego
City of Alameda
City of Los Angeles
City of Santa Monica
Climate Resolve
Coalition for Clean Air
Costa Mesa Alliance for Better Streets
Councilmember Zach Hilton, City of Gilroy
Culver City Democratic Club
East Bay for Everyone
East Bay YIMBY
Greenbelt Alliance
Grow the Richmond
Happy City Coalition
How to ADU
LISC San Diego
Marin County Bicycle Coalition
Mountain View YIMBY
MOVE Santa Barbara County
Napa-Solano for Everyone
Northern Neighbors
Norwalk Unidas
Peninsula for Everyone

Peninsula Interfaith Climate Action
People for Housing Orange County
PLACE Initiative
Progress Noe Valley
San Diego County Bicycle Coalition
San Francisco YIMBY
Santa Ana Active Streets
Santa Cruz YIMBY
Santa Rosa YIMBY
Seamless Bay Area
Silicon Valley Bicycle Coalition
SLO County YIMBY
South Bay YIMBY
Southside Forward
Streets Are For Everyone
Streets for People
Telegraph for People
TransForm
Urban Environmentalists
Ventura County YIMBY
YIMBY Action

OPPOSITION: (Verified 9/8/23)

Livable California

ARGUMENTS IN SUPPORT: California YIMBY argues:

> In recent years, California has prioritized parking reform policies. In 2017 the legislature passed SB 35, which exempts select projects streamlined from parking requirements. Last year, we were proud to sponsor AB 2097 (Friedman, 2022), which prohibited local governments from imposing minimum parking requirements near transit. Despite these efforts, the prevalence of bundled parking requires that housing-insecure tenants pay for the oversupply of existing parking.
>
> Between the high construction costs, the annual maintenance required, and the property taxes levied, the true cost of "free parking" is hidden from tenants. By requiring landlords to price and offer detached off-

street parking separate from the rental unit, this bill would reveal the true costs to tenants and help them make informed decisions.

ARGUMENTS IN OPPOSITION: Livable California writes:

> This bill provides that any owner of specified new residential properties must unbundle parking from the price of rent and create separate leases or addendums for the parking. Unbundled parking may be leased to non-tenants. Tenants of a residential unit will have the right of first refusal when parking becomes available.
>
> Communities across the state are very different regarding parking needs. It is totally inappropriate to mandate a one-size-fits-all requirement, even on a "pilot" basis.
>
> While presented as a "pilot", the bill contains no requirement to accumulate data during the "pilot", no criteria for judging the "pilot", and no end date for the "pilot".
>
> Whether parking should be bundled or unbundled should be determined by developers in conjunction with the city and based on local conditions, not one-size-fits-all.

ASSEMBLY FLOOR: 54-18, 5/31/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Santiago, Schiavo, Ting, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Boerner, Irwin, Maienschein, Quirk-Silva, Ramos, Blanca Rubio, Soria, Valencia

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113
9/11/23 18:15:29

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

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

THIRD READING

Bill No: AB 1373
Author: Garcia (D), Becker (D) and Ting (D), et al.
Amended: 9/7/23 in Senate
Vote: 27 - Urgency

SENATE ENERGY, U. & C. COMMITTEE: 14-3, 9/6/23
AYES: Bradford, Ashby, Becker, Caballero, Dodd, Durazo, Eggman, Gonzalez, McGuire, Min, Newman, Rubio, Skinner, Stern
NOES: Dahle, Seyarto, Wilk
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/12/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 57-17, 5/26/23 - See last page for vote

SUBJECT: Energy

SOURCE: Author

DIGEST: This bill makes numerous changes to electricity policy, most notably, authorizes the Department of Water Resources (DWR) to serve as a central procurement entity to procure energy resources in order to help the state meet its renewable and zero-carbon energy resources and reliability goals should the California Public Utilities Commission (CPUC) identify a specific procurement need and make a request of DWR. This bill also includes numerous related and additional provisions.

ANALYSIS:

Existing law:

1) Requires the CPUC, in consultation with the California Independent System Operator (CAISO), to establish resource adequacy (RA) requirements for all load-serving entities (LSEs), including community choice aggregators (CCAs) and electric service providers (ESPs). Requires the RA program to achieve certain objectives, including maximizing the ability of CCAs to determine the generation resources used to serve their customers. (Public Utilities Code §380)

2) Authorizes the CPUC to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. (Public Utilities Code §451)

3) Establishes a renewables portfolio standard (RPS) and requires all retail sellers, including investor-owned utilities (IOUs), ESPs, and CCAs, to procure a minimum quantity of electricity products from eligible renewables energy resources, as defined, so that total kilowatt hours of those products sold to their retail end-use customers achieves 25 percent of retail sales by December 31, 2016, 33 percent by December 31, 2020, 44 percent by December 31, 2024, 52 percent by December 31, 2027, and 60 percent by December 31, 2030. (Public Utilities Code §399.15)

4) Requires the CPUC to identify a diverse and balanced portfolio of resources needed to ensure a reliable electricity supply that provides optimal integration of renewable energy in a cost-effective manner as part of the integrated resource planning (IRP) process. (Public Utilities Code §454.51)

5) Requires the CPUC to adopt a process for each electrical corporation, ESP or CCA to file an IRP and a schedule for periodic updates to the plan, and to ensure that LSEs meet other specified requirements. (Public Utilities Code §454.52)

6) Establishes the policy of the state that eligible renewable energy resources and zero-carbon resources supply 90 percent of all retail sales of electricity to California end-use customers by December 31, 2035, 95 percent of all retail sales of electricity to California end-use customers by December 31, 2040, 100 percent of all retail sales of electricity to California end use customers by December 31, 2045. (Public Utilities Code §454.53)

7) Establishes the Electricity Supply Strategic Reliability Reserve Program (ESSRRP) and Fund at the DWR that continuously appropriates moneys in the fund to DWR for purposes of implementing projects, purchases, and contracts for the purchase of electricity from resources to support summer reliability. (Water Code §80700 *et seq.*)

This bill:

1) Defines "eligible energy resources" to mean:

   a) A new resource procured by DWR that meets all of the following requirements:

      i) The resource directly supports attainment of the state's goal to achieve 100 percent zero-carbon and renewable energy resources by 2045, without increasing reliance on the state's dependence on any fossil fuel-based resources.

      ii) The CPUC determines the resource to not be under contract at sufficient levels as shown in LSEs' most recent individual IRPs submitted to and reviewed by the CPUC to achieve SB 100 (De León, Chapter 312, Statutes of 2018) goals.

      iii) The resource has a construction and development lead time of at least five years.

      iv) The resource does not generate electricity using fossil fuels or fuels derived from fossil fuels.

      v) The resource does not use combustion to generate electricity (except ancillary and necessary to facility geothermal electricity generation).

   b) Authorizes a pumped hydroelectric facility to qualify as an eligible energy resource if it does not exceed 500 megawatts (MW) and has been directly appropriated funding by the state before January 1, 2023.

2) Requires that the portfolio of resources identified by the CPUC, as part of the IRP process, ensures a reliable electricity supply that also provides optimal integration of resource diversity in a cost-effective manner. Requires the

CPUC to use the portfolio to establish procurement requirements to achieve SB 100 goals, in addition to the state's GHG reduction goals.

3) Requires the CPUC to ensure the net costs of any eligible resources procured by electric IOUs to satisfy the IRP identified need are allocated on a nonbypassable basis.

4) Clarifies that all costs resulting from nonperformance to satisfy the need are borne by the LSE that failed to perform, instead of solely the electric IOU or CCA.

5) Requires the CPUC, on or before September 1, 2024, and consistent with the IRP process and schedule, to determine if there is a need for the procurement of eligible energy resources, requires the CPUC to specify the eligible energy resources that should be procured to meet that need, and authorizes the CPUC, within six months of making that determination, to request the DWR to procure those specified resources that meet the portfolio of resources.

6) Authorizes the DWR to procure those resources if DWR elects to do so, before January 1, 2035.

7) Establishes the Eligible Energy Central Procurement Fund and continuously appropriates moneys in the fund to the DWR for procurement by DWR as the central procurement entity. Requires that all moneys collected by electric IOUs, ESPs, CCAs, and electric POUs and remitted to the DWR for eligible energy resources, and all moneys paid directly or indirectly to or for the account of the DWR for any sale, exchange, transfer, or disposition of those resources, be deposited into the fund.

8) Authorizes the DWR, upon determining that it is necessary or desirable to issue bonds to support activities for the procurement of eligible energy resources, to issue bonds for purposes of financing the procurement of those resources supporting the fund and other related expenses incurred by the DWR.

9) Establishes a sunset of January 1, 2035 by when DWR's authority to contract for electrical power ceases.

10) Requires the CPUC, on and before June 30, 2027, if the DWR determines that resources have been procured through the ESSRRP and that those resources

were used in a given month to meet a LSE's identified reliability need, to annually assess a capacity payment on each LSE that during that same month fails to meet its system RA requirements.

11) Requires the executive director of the CEC, upon the submission of that report, on and before June 30, 2027, if the DWR determines that resources have been procured through the ESSRRP and that those resources were used in a given month to meet an identified reliability need, to annually assess a capacity payment on each electric publicly owned utility (POU) in the CAISO balancing area that during that same month fails to meet its minimum planning reserve margin.

12) Establishes the Load-Serving Entity Capacity Payment Account and the Local Publicly Owned Electric Utility Capacity Payment Account in the DWR Electricity Supply Strategic Reliability Reserve Fund (ESSRRF), and specifies that moneys in those accounts would, upon appropriation by the Legislature, be used for contracts related to the ESSRRP. Requires capacity payments collected by the DWR from LSEs and electric POUs to be deposited in those two accounts.

13) Clarifies and makes explicit CPUC enforcement over all LSEs, once it has authorized additional direct transactions, to include IRP process specified in Sections 454.52 to 454.54 of the Public Utilities Code. Includes additional clean-up of the Section 365.1 of the Public Utilities Code, including deletion of language referencing an already produced report required in SB 237 (Hertzberg, Chapter 600, Statutes of 2018).

14) Makes explicit that RA program shall facilitate development of generating capacity that is needed to achieve the state's SB 100 policy to achieve 100 percent zero-carbon and renewable energy by 2045. Requires each LSE to be subject to the same requirements for the IRP process, in addition to RA and RPS, that is applicable to electric IOUs.

Background

SB 100 (De León, 2018). SB 100 established the state's target to meet 100 percent of the state's electricity retail load with renewable and zero-carbon resources by 2045. SB 1020 (Laird, Chapter 361, Statutes of 2022) established interim goals to meeting the SB 100 target, specifically requiring 90 percent of retail sales by 2035, 95 percent by 2040 to be met with renewable and zero-carbon energy resources. SB 100 Joint Agency Report evaluates the challenges and opportunities in

implementing SB 100. It includes an initial assessment of the additional energy resources and the resource building rates needed to achieve 100 percent clean electricity, along with the associated costs. The first report issued on March 2021 identified preliminarily that on average the state may need six gigawatts of new renewable and energy storage annually to meet the SB 100 goals.

IRP process. SB 350 (De León, Chapter 547, Statutes of 2015) required each LSE to file a biennial IRP for approval or certification by the CPUC. The CPUC combines all LSEs' IRPs to ensure the state is on its path to meet its clean energy procurement goals. POUs are required to file their own IRPs with the CEC. The goal of the IRP is a two-year planning process to ensure that LSEs are meeting targets that allow the electricity sector to contribute to California's economy-wide GHG emissions reductions goals and that helps to reduce overall costs. The effort is intended to forecast needs on a 10-year horizon. As part of the IRP process, the CPUC has issued several procurement orders on LSEs (summarized in the table below) to address near-term and mid-term procurement needs. Within the procurement orders, the CPUC has directed electric IOUs to serve central procurement entities for local RA and mid-term reliability to serve load to customers, including those of other LSEs.

CPUC IRP Procurement Order	**Total MW**	**Time Horizon (Calendar Years)**
D. 19-11-016	3,300 MW	2021-2023
D. 21-06-035 Mid-Term Reliability (MTR)	11,500 MW	2023-2028
D. 23-02-040 Supplemental	4,000 MW	2026-2027
Cumulative Procurement	**18,800 MW**	**2021-2028**

Recent budget and other energy "insurance" actions. In response to energy capacity challenges during extreme heat events, including the rotating outages in August 2020, the Legislature, in collaboration with the Newsom Administration, adopted several measures throughout 2022, in addition to previously adopted measures, to continue to help shore-up California's electricity supply against the impacts from extreme events. (These measures are noted in the table in the policy committee analysis. Note: Not included is other state budget funding to support development of new energy resources, such as long-duration storage, offshore wind, geothermal, and hydrogen or existing procurement mandates, including those for biomass.)

ESSRRP at the DWR (funded at $2.3 billion). In June 2022, Budget Trailer Bills, AB 205 (Committee on Budget, Chapter 61, Statutes of 2022), AB 178 (Ting, Chapter 45, Statutes of 2022), and AB 180 (Ting, Chapter 44, Statutes of 2022), were signed into law. These three pieces of legislation collectively established the ESSRRP and set forth new responsibilities and activities by DWR, funded by the newly established ESSRRF, and separate from the State Water Project. DWR established temporary energy resources and created a new deputy director-level division with 25 staff – the Division of Statewide Water and Energy – which oversees the ESSRRP along with the State Power Augmentation Program which was developed in July 2021 in response to executive order direction to quickly deploy 120 MW of new generation. Under the ESSRRP, DWR acts as contingency insurance to help maintain electricity reliability. As part of the program, DWR contracts directly with power facilities and also enters into agreements with the state's large electric IOUs to reimburse for the value of imported firm energy resources to support summer reliability.

Comments

Is a new central procurement mechanism needed? The CPUC has existing authority to direct procurement of energy resources as demonstrated by the procurement orders it has issued via the IRP process to direct LSEs to procure energy resources that are needed to meet near- and mid-term reliability. Additionally, the CPUC has utilized longstanding authority to direct electric IOUs to procure energy resources for bundled customers, as well as, customers of other LSEs with the costs collected from all customers served (for example local and system RA). Proponents of this proposal, including Governor Newsom's Administration, who proposed related budget trailer bill language, contend that additional authority is needed so that energy resources will be procured to meet the state's clean energy and reliability goals. The proponents argue that electric IOUs may not have the financial ability to finance these larger and long lead-time energy resources, such as offshore wind, geothermal, and pumped storage projects. They view the authority granted to DWR in this proposal as an additional tool to help ensure we meet our clean energy and reliability goals, especially given the anticipated aggressive procurement that may be needed to achieve the state's goals.

Why DWR? DWR's primary purpose and mission is to manage the state's water supply. DWR procures energy resources to operate the state water project (perhaps the state's largest single source of energy demand). During the 2000-01 energy crisis, DWR was directed to procure resources to help the state address the shortfalls affecting the electrical grid, particularly as the state's large electric IOUs

were in precarious financial situations (including one filing for bankruptcy and another on the verge of filing). However, DWR's performance in procuring resources at the time has been criticized by some suggesting DWR overpaid for resources, resulting in electric ratepayers having to shoulder the costs for the purchased energy for over two decades on their electric utility bills. Notably, DWR's procurement during the emergency conditions of the energy crisis may not be a fair comparison as to the procurement envisioned by this proposal, given this proposal envisions this authority as a backstop mechanism that the CPUC can request as part of the IRP process – a forward-looking planning effort.

Diverse energy resource mix? Currently, the language would authorize DWR to procure "eligible energy resources" defined as limited to resources meeting specified criteria. Namely, the language prohibits resources that are derived from fossil fuels, or would increase dependence on fossil-fueled resources, or pumped storage hydroelectricity that are over 500 MW and have never received state funding, and prohibit any resource that uses combustion (except if it is ancillary to the production of geothermal energy). In the case of pumped storage hydroelectricity, the intent is to only capture San Vicente Reservoir project which received funding in the 2021 State Budget. Additionally, the CPUC must determine that the resource is not under contract at sufficient levels to meet the state's clean energy goals and has a construction and development lead time of at least five years. As such, this proposal does not explicitly call out every eligible resource, but attempts to prohibit and require particular attributes. At a minimum, it is likely offshore wind, geothermal energy resources, and pumped hydroelectricity energy storage under 500 MW would be among the eligible resources DWR could procure. In this regard, the language attempts to narrow DWR's authority to procure only a subset of potential resources currently available.

Backstop or more than backstop procurement? The proposal would require the CPUC to identify procurement needs through the existing IRP process and authorize the CPUC to request DWR procure needed resources after six months of identifying the need. The intent for the six month window is to allow other LSEs the opportunity to procure their share of their load if they elect to do so. This approach is a long-held principle of CCAs whose primary (if not exclusive) mission is to procure energy on behalf of their load. Such an approach seems appropriate to ensure LSEs exercise their responsibility to procure resources for their load, prior to a state agency stepping in. In this regard, it's possible the DWR procurement may not ever be used, or perhaps only used when truly necessary because the resource was too difficult for any individual LSE, or a few LSEs, to

procure. However, other components of the proposal authorize LSEs and electric POUs to request DWR procure additional incremental procurement on behalf of their load. This option may allow LSEs and POUs to advance towards the state's clean energy and reliability goals. However, such an approach can also muddle whether procurement by DWR is intended as a backstop tool within the IRP or would enable LSEs and POUs from over-reliance on a state agency to procure resources on their behalf. Importantly, the proposal includes some safeguards to limit this election by LSEs, by requiring the CPUC make determinations as to its necessity and ensuring cost-recovery for these procurements.

Costs. Authorizing DWR to procure energy can have the unintended effect of reducing supply in the energy market and increasing prices overall (particularly in the currently constrained energy market). These costs come home to roost on electric utility customer bills. Additionally, market participants, including LSEs, electric POUs, and generators, may elect to delay procurement transactions so as to position themselves for procurement by DWR. In this regard, the state should tread carefully. This bill attempts to address these challenges by limiting resources to those noted above, including those with at least a five year construction and development horizon – therefore a resource that is less likely to be procured in the current market. This bill also provides an added safeguard that requires the CPUC to determine the procurement by DWR (including any bonds) is just and reasonable prior to the procurement, and if so, recoverable by a nonbypassable charge on customer's electric utility bills. DWR procurement would be additional costs on customers' current electric utility bills, though it's unclear to what extent these would be less than, or more than, what would otherwise be procured to meet the state's clean energy and reliability goals. Some stakeholders oppose the bill's proposal to limit the eligible generation resources for central procurement eligibility, including some supporting hydrogen or biomass energy. This bill strictly limits eligible resources for purposes of DWR central procurement, should it be needed. This bill does not limit the resources that can be procured in the larger energy market or via contract among providers and generators, separate from what is envisioned by DWRs' more narrowly envisioned role in this bill.

Related/Prior Legislation

SB 123 (Committee on Budget, Chapter 52, Statutes of 2023) extended the date, from September 2022 to October 2023, by when electric IOUs may be reimbursed for above-market costs for imported energy and capacity products delivered or capable of being delivered to the state within the ESSRRP.

SB 124 (Committee on Budget, Chapter 53, Statutes of 2023) extended the date, from September 2022 to October 2023, by when electric IOUs may be reimbursed for above-market costs for imported energy and capacity products delivered or capable of being delivered to the state, clarified that DWR must present an investment plan to the CEC, rather than the contracts, and makes additional clarifying changes of the ESSRRP.

AB 205 (Committee on Budget, Chapter 61, Statutes of 2022) establishes the ESSRRP, among its many provisions.

AB 209 (Committee on Budget, Chapter 251, Statutes of 2022) makes additional changes to the ESSRRP, established the Voluntary Offshore Wind and Coastal Resources Protection Program, among its many energy-related provisions.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

According to the Senate Committee on Appropriations:

- To the extent that the California Public Utilities Commission (CPUC) assigns a central procurement role to DWR:
    - One-time costs of $32 million (General Fund) for DWR to initiate and implement a Central Procurement Function for diverse clean energy resources. This amount was appropriated as part of the 2023-24 Budget. If a determination is made by the CPUC that DWR will not perform this function, the remaining funds must be transferred to the California Energy Commission (CEC) upon order of the Director of Finance.
    - Ongoing costs of an unknown amount, possibly in the tens of millions of dollars annually (General Fund, bond funds, and/or special funds), for DWR to operate and administer a central procurement program.
    - Unknown, potentially significant ongoing costs (various funds) to the state as an electric utility ratepayer. The State of California is an electricity customer, purchasing roughly one percent of the state's electricity. As such, the state incurs costs when rates increase. To the extent this bill results in increased electricity rates, there could be additional costs on the state as a ratepayer. (See staff comments.)
- One-time cost pressure of at least $6 million in 2024-25 (General Fund) to support comprehensive, regional baseline environmental monitoring and research into the impacts of prospective offshore wind energy development

where offshore wind has been leased by the Bureau of Ocean Energy Management of the U.S. Department of the Interior.

- Ongoing cost pressure in the millions or tens of millions of dollars annually (General Fund and other various funds) to support the California Coastal Commission's coastal development permitting of prospective offshore wind energy development in and around regions in which offshore wind energy areas have been leased by the Bureau of Ocean Energy Management of the United States Department of the Interior, among other things.
- The CPUC, CEC, California Workforce Development Board (CWDB), Coastal Commission, and California Natural Resources Agency anticipate any costs to be minor and absorbable.

SUPPORT: (Verified 9/12/23)

350 Humboldt: Grass Roots Climate Action
American Bird Conservancy
American Clean Power Association
BlueGreen Alliance
Business Network for Offshore Wind
California Association of Port Authorities
California Chamber of Commerce
California Coastal Protection Network
California State Association of Electric Workers
California State Council of Laborers
California State Pipe Trades Council
California Wind Energy Association
City of Santa Rosa
Clean Air Task Force
Clean Power Campaign
Coalition of California Utility Employees
Elected Officials Protecting America
Environment California
Environmental Defense Fund
Equinor US
Fervo Energy
Golden State Wind
Humboldt Baykeeper
Humboldt County Workforce Development Board

IBEW, Local Union 639
Invenergy
International Longshore and Warehouse Union
Monterey Bay Aquarium
National Wildlife Federation
Natural Resources Defense Council
Ocean Conservation Research
Offshore Wind California
RWE
San Diego County Water Authority
Santa Cruz Climate Action Network
Southern California Edison
Supervisor Dawn Ortiz-Legg, San Luis Obispo County-District 3
The National Hydropower Association
Union of Concerned Scientists
Vineyard Offshore
Western State council of Sheet Metal Workers

OPPOSITION: (Verified 9/12/23)

California Farm Bureau
California Municipal Utilities Association
Fission Transition
County of San Diego

ARGUMENTS IN SUPPORT: According to the author:

> While the last decades of California's renewable development has favored intermittent renewables, policymakers are overdue in planning for and valuing other renewable development that can better match intermittent resources' profiles. These resources, which include geothermal, large-scale storage, and offshore wind projects, are either just getting started and carry development risks and higher costs, or have historically cost more to operate and maintain. AB 1373 provides a tool – DWR procurement authority – for the CPUC to be able to exercise when planning efforts show these diverse clean energy resources are needed, but the state utilities are unable to procure them. Using the DWR authority is likely to lead to lower costs to ratepayers for these higher-value resources than the utilities could achieve on their own, due to state bonding authority, state tax breaks, and minimizing project development risk by having a state entity negotiating contracts. Such ratepayer reductions should be encouraged during a time of increased electric and gas unaffordability.

ARGUMENTS IN OPPOSITION: In opposition to this bill, California Municipal Utilities Association writes in opposition to a recent version of this bill (8/31/2023) expressing concerns about the structure of the capacity payments for electric POUs, opposing the exclusion of hydrogen energy from the eligible energy resources for the DWR central procurement, and concerns about the requirement to adopt a nonbypassable charge as the cost recovery mechanism for DWR central procurement when POUs exercise this option.

The California Farm Bureau (CFB) opposes this bill, expressing concerns about the potential to increase costs to ratepayers; the exclusion of other resources, specifically biomass, from the eligible energy resources that DWR may procure; concerns about the CAISO's rebuttal presumption granted in this bill; and the ability for DWR to contract electric IOUs to serve as their agent, potentially increasing costs to ratepayers. The CFB states: "ratepayers should not continue to bankroll those initiatives when rates are already escalating at an alarming rate."

ASSEMBLY FLOOR: 57-17, 5/26/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Calderon, Juan Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Ward, Wicks, Wilson, Wood, Zbur, Rendon
NOES: Alanis, Boerner, Megan Dahle, Davies, Dixon, Essayli, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Bains, Wendy Carrillo, Chen, Flora, Maienschein, Weber

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
9/13/23 19:33:33

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

SENATE RULES COMMITTEE AB 1420
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1420
Author: Berman (D)
Amended: 9/8/23 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/27/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/1/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 75-0, 5/25/23 - See last page for vote

SUBJECT: Firearms

SOURCE: California Department of Justice

DIGEST: This bill expands the authority of the Department of Justice (DOJ) to conduct firearm dealer inspections to ensure compliance with all applicable state laws, and requires DOJ to maintain information on the number of firearms dealers found to have violated applicable state laws with knowledge or gross negligence.

Senate Floor Amendments of 9/8/23 address potential chaptering issues with AB 574 (Jones-Sawyer, 2023).

ANALYSIS:

Existing law:

1) Requires a person to hold a firearm dealer's license in order to sell, lease, or transfer a firearm. (Pen. Code, § 26500.)

2) Provides that the duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting

licensees to sell firearms at retail within the city, county, or city and county. (Pen. Code, § 26705, subd. (a).)

3) Requires a firearms dealer or licensee to meet all the following requirements:

   a) Have a valid federal firearms license;

   b) Have any regulatory or business license, or licenses, required by local government;

   c) Have a valid seller's permit issued by the State Board of Equalization;

   d) Have a certificate of eligibility issued by the DOJ, as specified;

   e) Have a license issued in a specified format granted by the local licensing authority; and,

   f) Be recorded in the DOJ's centralized list of licensees. (Pen. Code, § 26700.)

4) Requires DOJ to keep a centralized list of all persons licensed to sell, lease or transfer firearms at retail. (Pen. Code §26715.)

5) Provides that a license to sell firearms is subject to forfeiture for any violation of a number of specified prohibitions and requirements, with limited exceptions. (Penal Code §26800(a).)

6) Provides that the DOJ may assess specified civil fines against a licensee for any breach of a prohibition or requirement that subjects the licensee to forfeiture of their license to sell firearms. (Penal Code §26800(b).)

7) Requires firearms dealers to secure their inventory in a secure facility on the business premises with trigger locks, or within a locked, fireproof safe or vault when the licensee is not open for business. (Pen. Code, § 26890.)

8) Requires licensed dealers to maintain and make available to law enforcement or the DOJ a firearm transaction record, as specified. (Pen. Code, §§ 26900, 28100.)

9) Authorizes the DOJ to inspect firearms dealers every three years, as specified, in order to ensure compliance with only specified statutes. (Pen. Code, § 26720, subd. (a).)

10) Requires the DOJ to maintain and make available upon request the number of inspections conducted and the amount of fees collected, as specified, exempted jurisdictions, number of dealers removed from the centralized list of licensees, and the number of dealers found to have violated specified provisions of law with knowledge or with gross negligence. (Pen. Code, § 26725.)

11) Provides that the DOJ shall prescribe the form of the register and the record of electronic transfer of firearms (also known as the Dealer's Record of Sale, or DROS). (Pen. Code, § 28155.)

12) Requires the DROS to include the following information, among other things:

    a) Date and time of sale;
    b) Make of firearm;
    c) Serial number or any assigned identification number or mark;
    d) Caliber;
    e) Type of firearm;
    f) Barrel length;
    g) Full name, date of birth, and purchaser's address;
    h) Purchaser's phone number;
    i) Purchaser's gender;
    j) All of the purchaser's legal names or aliases;
    k) Yes or no answer to questions inquiring whether the purchaser is prohibited from possessing a firearm;
    l) Signature of purchaser;
    m) Right thumbprint of the purchaser; and,
    n) A statement of the penalties for signing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register. (Pen. Code, § 28160.)

13) Provides that the dealer or salesperson must ensure all required information has been obtained and be informed that incomplete information will delay sales. (Pen. Code, § 28175.)

14) Makes it a misdemeanor for a person to furnish a fictitious name or address, or knowingly furnish incorrect information, or knowingly omit any information on the DROS forms. (Pen. Code, § 28250, subd. (a).)

15) Makes it a felony for a prohibited person to knowingly furnish a fictitious name, address, incorrect information, or to omit any information on the DROS forms. (Pen. Code, § 28250, subd. (b).)

This bill:

1) Authorizes the DOJ to conduct firearm dealer inspections to ensure compliance with any applicable state law, in addition to the statutes specified in existing law.

2) Requires DOJ to maintain and make available upon request the number of dealers found to have violated a provision of any applicable state law with knowledge or gross negligence, in addition to the statutes specified in existing law.

3) Authorizes the DOJ to assess civil fines against firearm dealers not only for breaches of specified statutes, but also for violations of any other applicable state laws.

4) Requires, commencing September 1, 2025, the DROS to include a firearm purchaser's email address

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

According to the Senate Appropriations Committee, the DOJ reports one-time costs of $172,000 in 2023-24 for a Java/SQL Developer Consultant and 320 temporary help hours from an Information Technology Specialist I to add an email field to the Dealer Record of Sale (DROS) system and DROS Entry System databases (DROS Fund).

SUPPORT: (Verified 9/8/23)

California Department of Justice (source)
Brady California
Brady Campaign to Prevent Gun Violence
City of Half Moon Bay
City of Mountain View
Everytown for Gun Safety Action Fund
Giffords Law Center to Prevent Gun Violence
Los Angeles County District Attorney's Office
Los Angeles Unified School District
March for Our Lives Action Fund
Silicon Valley Alliance for Gun Safety
Women Against Gun Violence

OPPOSITION: (Verified 9/8/23)

None received

ASSEMBLY FLOOR: 75-0, 5/25/23
AYES: Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Mike Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NO VOTE RECORDED: Aguiar-Curry, Flora, Vince Fong, Mathis, Papan

Prepared by: Alex Barnett / PUB. S. /
9/11/23 18:15:30

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

SENATE RULES COMMITTEE AB 1505
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 1505
Author: Rodriguez (D), et al.
Amended: 7/3/23 in Senate
Vote: 27 - Urgency

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 7/11/23
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Jones, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto
NO VOTE RECORDED: Grove

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 80-0, 5/31/23 - See last page for vote

SUBJECT: Seismic retrofitting: soft story multifamily housing

SOURCE: Author

DIGEST: This bill authorizes the Office of Emergency Services (OES) to dedicate Hazard Mitigation Grant Program and Building Resilient Infrastructure and Communities application funding to specified projects to augment and support the Seismic Retrofitting Program for Soft Story Multifamily Housing.

ANALYSIS:

Existing law:

1) Establishes the California Earthquake Authority (CEA), administered under the Insurance Commissioner (IC) and governed by a three-member board, as specified.

2) Establishes the California Residential Mitigation Program (CRMP) as a joint powers authority by agreement between the CEA and OES.

3) Establishes the Seismic Retrofitting Program for Soft Story Multifamily Housing for the purposes of providing financial assistance to owners of soft story multifamily housing for seismic retrofitting, as specified.

4) Establishes, pursuant to the Federal Robert T. Stafford Disaster Relief and Emergency Assistance Act, various grant opportunities, including the Hazard Mitigation Grant Program and Building Resilient Infrastructure and Communities grant program, to support hazard mitigation projects.

This bill:

1) Authorizes OES, in order to augment and support the Seismic Retrofitting Program for Soft Story Multifamily Housing, to dedicate Hazard Mitigation Grant Program application funding for any of the following projects:

   a) Seismic retrofit projects.
   b) Projects that augment new construction to meet seismic functional recovery objectives.
   c) Scoping projects that identify vulnerable structures in need of mitigation and that prioritize housing and other critical infrastructure, such as hospitals, fire stations, public safety dispatch, emergency operation centers, assisted living facilities, grocery facilities, and historical buildings.

2) Includes an urgency clause to take effect immediately.

Background

Author Statement. According to the author's office, "when it comes to preparing for a major earthquake in California, it is only a matter of time – not if. And we need to be prepared for an earthquake in the midst of other disasters – whether it be floods, fires or a pandemic. We must also be mindful of the lessons from the devastating earthquakes in Turkey and Syria."

Further, the author's office notes, "for example, over the next 30 years in the Bay Area, there is a 72% chance of a 6.7 magnitude earthquake, a 51% chance of a 7.0 magnitude earthquake and a 20% chance of a 7.5 magnitude earthquake, according to the U.S. Geological Survey. The East Bay's Hayward Fault, which is believed capable of generating up to a magnitude 7.0 earthquake, has not produced a big quake since 1868 and is 'due' for one, geologists say. The San Andreas Fault produced the estimated 7.9 magnitude earthquake of 1906 and could give San

Francisco another huge shake again. The U.S. Geological Survey's Shake Out Scenario projects nearly 1,800 deaths, 50,000 injuries, destruction of major utilities, and destruction of major freeways connecting the region to Phoenix and Las Vegas following a 7.8 magnitude earthquake in Southern California on the San Andreas Fault."

Additionally, "the recent budget includes $15 million for a new multi-family, soft-story retrofit program the Legislature approved in last year. This bill will augment this investment by encouraging Cal OES to leverage federal hazard mitigation funds for additional seismic retrofit projects, projects that augment new construction to meet seismic functional recovery objectives, and scoping projects that identify vulnerable structures in need of mitigation and that prioritize housing and other critical infrastructure, such as hospitals, fire stations, public safety dispatch, emergency operation centers, assisted living facilities, grocery facilities, and historical buildings."

Seismic Retrofitting Program for Soft Story Multifamily Housing. According to the Federal Emergency Management Agency's website, "[t]he program will offer seismic retrofit grants to building owners of multi-family (five to 10 units), soft-story apartment and condominium buildings that have not been previously retrofitted. 'Soft-story' buildings, built before current building codes, have ground stories that tend to collapse when shaken hard enough. Limiting catastrophic housing damage to this fragile housing stock allows residents to remain in their homes and helps individuals that may lack the resources to recover quickly. It also helps keep the community intact by allowing residents who stay in their homes to participate in the rebuilding of their neighborhoods and cities, continue to work and support their local businesses, and send their children to their local schools.

Further, the CEA will continue to partner with local jurisdictions and cities, including the counties of Los Angeles, Contra Costa and Alameda. Additionally, the cities of El Cerrito and Albany are also partners that are involved with a seismic retrofit ordinance for multi-family buildings. This new ordinance focuses on census tracts with a moderate to high Centers for Disease Control Social Vulnerability Index (SoVI) score that meets the U.S. Department of Housing and Urban Development low-income threshold.

Hazard Mitigation Grant Program. As the result of a Presidential Disaster Declaration, FEMA's Hazard Mitigation Grant Program (HMGP) funds plans and projects that reduce the effects of future natural disasters. In California, these funds are administered by the OES Hazard Mitigation Branch. Eligible sub-

applicants include state agencies, local governments, special districts, and some private non-profits.

The HMGP funding opportunities provide support for communities to implement mitigation activities to reduce risk to life and property from natural hazards. In California, natural hazards include wildfire, earthquake, drought, extreme weather, flooding, and other natural hazards as defined in the State Hazard Mitigation Plan. HMGP funding can also support the development of Local Hazard Mitigation Plans (LHMP), and project scoping activities referred to as Advanced Assistance. For eligible socially vulnerable and high hazard risk communities, the PrepareCA Initiative provides additional support for capacity building and to cover the local cost share for eligible mitigation activities.

Building Resilient Infrastructure and Communities. The Federal Building Resilient Infrastructure and Communities (BRIC) program supports states, local communities, tribes, and territories as they undertake hazard mitigation projects, reducing the risks they face from disasters and natural hazards. The BRIC program guiding principles are supporting communities through capability- and capacity-building; encouraging and enabling innovation; promoting partnerships; enabling large projects; maintaining flexibility; and providing consistency.

This bill authorizes OES to dedicate Hazard Mitigation Grant Program applicant funding for any of the following projects:

1) Seismic retrofit projects.
2) Projects that augment new construction to meet seismic functional recovery objectives.
3) Scoping projects that identify vulnerable structures in need of mitigation and that prioritize housing and other critical infrastructure, such as hospitals, fire stations, public safety dispatch, emergency operation centers, assisted living facilities, grocery facilities, and historical buildings.

Related/Prior Legislation

AB 1770 (Emergency Management Committee, 2023) authorizes the Alfred E. Alquist Seismic Safety Commission (Commission) to coordinate with the Department of Forestry and Fire Protection and OES to take actions related to implementing and funding seismic mitigation activities and earthquake early warning technology, as specified. (Pending in the Senate Appropriations Committee)

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

SUPPORT: (Verified 8/21/23)

Apartment Association of Greater Los Angeles
Apartment Association, California Southern Cities
Apartment Owners Association of California
Arcadia Association of Realtors
Board of Supervisors for the City and County of San Francisco
Building Industry Association of Southern California, Inc.
California Apartment Association
California Building Officials
California Business Properties Association
California Rental Housing Association
City of Alameda
City of Alturas
City of Belmont
City of Carson
City of El Centro
City of El Monte
City of Fullerton
City of Inglewood
City of La Puente
City of Moreno Valley
City of Mountain View
City of Palo Alto
City of Paramount
City of San Diego
City of San Fernando
City of Seaside
City of Thousand Oaks
City of Tustin
Coachella Valley Disaster Preparedness Network
Community Foundation of the Valleys
Culver City Chamber of Commerce
Earthquake Engineering Research Institute
Greater San Fernando Valley Chamber of Commerce
League of California Cities
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation

North Valley Property Owners Association
Omega Flex
Pasadena Chamber of Commerce and Civic Association
Regional Cal Black Chamber SFV
San Francisco Bay Area Planning and Urban Research Association
San Pedro Chamber of Commerce
Santa Monica Rent Control Board
Southern California Earthquake Center
Southern California Rental Housing Association
Structural Engineers Association of California
Torrance Area Chamber of Commerce
U.S. Green Building Council - Los Angeles
US Resiliency Council
Vernon Chamber of Commerce

OPPOSITION: (Verified 8/21/23)

None received

ARGUMENTS IN SUPPORT: The League of California Cities (Cal Cities) writes that, "Cal Cities supports additional funding for local agencies to recoup the costs associated with fire safety in the community and timely mutual aid reimbursement for disaster response services in other jurisdictions. Additionally, Cal Cities supports incentives for homeowners who undertake measures to 'harden their homes.'"

ASSEMBLY FLOOR: 80-0, 5/31/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting,

Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

Prepared by: Brian Duke / G.O. / (916) 651-1530
8/24/23 11:20:59

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

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

THIRD READING

Bill No: AB 1734
Author: Jones-Sawyer (D)
Amended: 9/8/23 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 8-0, 7/5/23
AYES: Caballero, Seyarto, Blakespear, Dahle, Durazo, Glazer, Skinner, Wiener

SENATE HOUSING COMMITTEE: 11-0, 7/10/23
AYES: Wiener, Ochoa Bogh, Blakespear, Caballero, Cortese, McGuire, Padilla, Seyarto, Skinner, Umberg, Wahab

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 79-0, 5/31/23 - See last page for vote

SUBJECT: Local Government: Surplus Land Act: exemptions

SOURCE: Mayor of Los Angeles Karen Bass

DIGEST: This bill exempts, until January 1, 2034, certain housing and homelessness projects from the Surplus Land Act (SLA) in local agencies that have declared a local homelessness emergency and meet other requirements.

Senate Floor Amendments of 9/8/23 establish a 10-year sunset, narrow the bill to the City of Los Angeles; requires labor protections for projects that benefit from the bill's exemptions, and revise the informational and penalty requirements in the bill.

ANALYSIS:

Existing law:

1) Establishes procedures for the disposal of publicly-owned land that is surplus to the needs of local agencies, under SLA.

2) Requires local officials that want to dispose of public property to declare that the land is no longer needed for the agency's use in a public meeting and declare the land either "surplus land" or "exempt surplus land."

3) Requires local agencies to follow the procedures laid out in the SLA before surplus land can be sold, including, but not limited, to:

    a) Send a written notice of availability to various public agencies and nonprofit groups, referred to as "housing sponsors," notifying them that land is available for the following purposes:

        i) Low- and moderate-income housing;
        ii) Park and recreation, and open space;
        iii) School facilities; or
        iv) Infill opportunity zones or transit village plans.

4) Requires local agencies to negotiate in good faith for 90 days with housing sponsors that respond.

5) Allows the local agency to dispose of the property on the private market if agreement is not reached with a housing sponsor.

6) Requires that, if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15% of the units must be sold or rented at an affordable cost to lower income households.

7) Imposes penalties of 30% of the sale price of the land for a first violation and 50% of the sale price for any subsequent violation for selling land in violation of the SLA. Establishes an enforcement process, which provides, among other things, that a local agency cannot be liable for a penalty if it is not notified by the Department of Housing and Community Development (HCD) that it is in violation of the act.

8) Designates certain types of land as "exempt surplus land" and provides that the entirety of the SLA does not apply to exempt surplus land.

9) Defines "Low Barrier Navigation Center" to mean a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.

10) Defines "supportive housing" as housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

11) Defines, federally, "transitional housing" to mean buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.

This bill:

1) Provides that the SLA does not apply to the disposal of land by a city with a population exceeding 2.5 million for:

   a) Low-barrier navigation centers;

   b) Supportive housing;

   c) Transitional housing; or

   d) Affordable housing where 100% of the units are affordable to lower-income households, 20% of which can be for moderate-income households.

2) Authorizes a city to dispose of land pursuant to this bill, if it:

   a) Has a compliant housing element; and

   b) Is designated pro-housing by HCD.

3) Requires all construction workers, except apprentices, on construction or rehabilitation work on the land to be paid prevailing wage, as specified;

4) Requires any project involving construction or rehabilitation of 40 or more housing units, excluding low barrier navigation centers, to be subject to a public labor agreement.

5) Requires a city that disposes of land pursuant to this bill to include in their existing annual progress report to HCD, the status of a development of land disposed of pursuant to this section, as specified.

6) Authorizes HCD to request additional information on land disposed of pursuant to the bill.

7) Sets civil penalties on a city if it disposes land in violation of this bill's requirements:

   a) For the first violation, 30% of the greater of the final sale price or fair market value of the land at time of disposition, or, in the case of leases, of the net present value of the lease at the time of disposition; and

   b) For any additional violations, 50% of the applicable value.

8) Requires that an independent appraisal of the land must determine the fair market value.

9) Allows any of the following can bring an action to enforce these penalties:

   a) Entities entitled to receive notices of availability under the SLA;

   b) A person who would have been eligible to apply for residence in affordable housing had the agency not violated the provisions of this bill;

   c) A housing organization;

   d) A beneficially interested person or entity; or

   e) HCD.

10) Mandates penalties to be deposited into a local housing trust fund, or certain state affordable housing funds, as specified.

11) Provides that, notwithstanding the penalty provisions, a city that responds to HCD's request for information shall not be liable for the civil penalty if the city is not notified by HCD that the proposed disposal would violate this section within 30 days of receiving the requested information.

12) Grants a city 60 days to cure or correct a violation before an action can be brought under the bill.

13) Provides that the bill shall not be construed to impose or affect any requirement applicable to disposals of land under any other provision of the SLA, including, but not limited to, any requirement for notice.

14) Sunsets the bill's provisions on January 1, 2034.

Background

Surplus Land Act. Public agencies are major landlords in some communities, owning significant pieces of real estate. When properties become surplus to their needs, public officials want to sell the land to recoup their investments. The SLA spells out the steps local agencies must follow when they want to dispose of land. It requires local governments to give a "first right of refusal" to other governments and nonprofit housing developers, and to negotiate in good faith with them to try to come to agreement.

Before local officials can dispose of property, they must declare that the land is no longer needed for the agency's use in a public meeting and declare the land either "surplus land" or "exempt surplus land." Agency use includes land that is being used, or is planned to be used pursuant to a written plan the local agency's governing board adopts, or is disposed of to support agency work or operations.

The SLA designates certain types of land as "exempt surplus land," and specifically provides that the entire law does not apply to exempt surplus land. All other surplus land must follow the procedures laid out in the SLA before a local agency can sell it. Before agencies can enter into negotiations to sell surplus land, they must send a written notice of availability to various public agencies and nonprofit groups, referred to as "housing sponsors," notifying them that land is available for the following purposes:

- Low- and moderate-income housing;
- Park and recreation, and open space;
- School facilities; or
- Infill opportunity zones or transit village plans.

Housing sponsors can notify the HCD that they are interested in acquiring surplus land to develop affordable housing. HCD maintains a list of notices of availability on its website.

If another agency or housing sponsor wants to use the surplus land for one of these purposes, it must tell the disposing agency within 60 days, and if multiple entities want to purchase the land, the housing sponsor that proposes to provide the greatest level of affordable housing gets priority. The agency and the housing sponsor then have an additional 90 days to negotiate a mutually satisfactory price and terms in good faith. If they cannot agree, the agency that owns the surplus land can sell the land on the private market. The SLA says that nothing in its provisions prevents a local agency from disposing of the land at or below fair market value, where not in conflict with other law.

AB 1486 (Ting, 2019). In 2019, the Legislature substantially revised the SLA to increase the emphasis on affordable housing and address concerns that some local agencies were bypassing the SLA's requirements (AB 1486, Ting, Chapter 664, Statutes of 2019). Among other changes, AB 1486 broadened the definition of surplus land and required land to be designated as surplus prior to the local agency selling the land, which ensures that local agencies must comply with the SLA. AB 1486 prohibited local agencies from counting the sale of land for economic development purposes as being "for the agency's use." This means local agencies must open their properties up to affordable housing developers first, even if they have different purposes in mind for the property. Additionally, AB 1486 instituted a requirement that if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15% of the units must be sold or rented at an affordable cost to lower income households.

City of Los Angeles. The City of Los Angeles is California's largest city with approximately 3.8 million residents. While the City of Los Angeles represents less than 10% of the State's total population, it is home to almost 25% of the state's unsheltered population. According to the 2022 Greater Los Angeles Homeless Count, there are nearly 42,000 unhoused Californians in Los Angeles alone. Housing availability is a key contributing factor. In 2019, the City of Los Angeles had a higher percentage of cost-burdened renter households than any other major American city, at nearly 60%. Over one-quarter of residents are severely cost-burdened, contributing to the homelessness emergency in the City.

Since taking office in December 2022, Los Angeles Mayor Karen Bass has taken steps to address the housing and homelessness crises. The Mayor declared, and the city council ratified, a citywide state of emergency to address homelessness.

Under the state of emergency, the City can take steps to lift rules and regulations that slow housing production, expedite housing contracts, and allow the City to acquire rooms, properties, and land to provide housing.

The Mayor also issued the following executive directives:

- No. 1, which required all affordable housing projects to be approved within 60 days and permitted within five days.

- No. 3, which expedited the identification and disposition of city-owned land that is vacant, surplus, or underutilized.

Los Angeles Mayor Karen Bass wants to allow local agencies that declare a local emergency related to homelessness, have a compliant housing element, and are designated pro-housing by HCD to exclude land that is disposed of for the following purposes from the SLA.

Comments

1) *Purpose of the bill.* According to the author, "California has the largest population of people experiencing homelessness in the nation, yet only builds a fraction of the affordable housing needed. Like most of the state, the City of Los Angeles is experiencing a housing crisis. Just last year, there were nearly 42,000 unhoused individuals in LA alone. Under Mayor Karen Bass' leadership, LA has taken critical steps to address homelessness and expedite affordable housing production. Unfortunately, though the Surplus Land Act was designed to promote an increase in the supply of affordable housing, existing exemptions for affordable housing projects often lead to a prolonged process and unfulfilled projects. AB 1734 will enable pro-housing jurisdictions that have declared a local emergency on homelessness and are compliant with state housing law more quickly dispose of publicly owned property to develop emergency shelters and transitional supportive or affordable housing."

2) *To notice, or not to notice?* There is an ongoing debate regarding whether agencies that dispose of exempt surplus land need to notify HCD prior to disposing of the land. The Surplus Land Act states that the entirety of the Act does not apply to disposals of exempt surplus land. Nonetheless, HCD, through its guidelines for the SLA, has required local agencies that are disposing of exempt surplus land to provide notice to HCD 30 days prior to disposal. AB 1734 allows HCD to request information on properties that are disposed of under the provisions of the bill, and provides a safe harbor from penalties for the city if it responds to that request. But it stops short of directly requiring

notice prior to disposal. In any case, the bill provides that it does not change anything about whatever requirements on other disposals of land (such as exempt surplus land) apply under the SLA.

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

According to the Senate Appropriations Committee:

- Unknown, potentially moderate court workload cost pressures for trial courts to hear and adjudicate new civil actions for alleged violations of the specified exemptions to the SLA that are brought under the provisions of this bill (Trial Court Trust Fund, General Fund). See Staff Comments.

- HCD indicates that costs associated with this bill would be minor and absorbable, but notes that, to the extent multiple bills are enacted that create exemptions to the SLA, HCD may need to request additional resources to absorb the cumulative workload for additional monitoring and enforcement, updating guidelines, and providing technical assistance to local agencies. (General Fund)

SUPPORT: (Verified 9/11/23)

Mayor of Los Angeles Karen Bass (source)
City of Long Beach
LA Family Housing
Los Angeles Unified School District
St. Joseph Center
The United Way of Greater Los Angeles

OPPOSITION: (Verified 9/11/23)

California Coalition for Rural Housing
California Housing Consortium
California Housing Partnership Corporation
Housing California

ASSEMBLY FLOOR: 79-0, 5/31/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra,

Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wood, Zbur, Rendon

NO VOTE RECORDED: Wilson

Prepared by: Anton Favorini-Csorba / GOV. & F. / (916) 651-4119
9/12/23 12:47:57

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

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

THIRD READING

Bill No: AB 1741
Author: Waldron (R)
Amended: 9/8/23 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-0, 6/19/23
AYES: Roth, Nguyen, Alvarado-Gil, Archuleta, Ashby, Dodd, Eggman, Glazer, Niello, Wilk
NO VOTE RECORDED: Becker, Smallwood-Cuevas, Wahab

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 70-0, 5/31/23 - See last page for vote

SUBJECT: Healing arts: clinical laboratories: personnel

SOURCE: California Clinical Laboratory Association
Quest Diagnostics

DIGEST: This bill provides that unlicensed laboratory personnel can perform certain functions under the supervision and control of a physician and surgeon, or a person licensed as specified; defines supervision and control, as specified. This bill states the laboratory director will maintain responsibility for the performance of unlicensed laboratory personnel and any delegated supervision or training of the unlicensed personnel; and prohibits actions of unlicensed personnel.

Senate Floor Amendments of 9/8/23 address implementation issues by adding a definition of "assistance" in order to clarify that personnel are acting under the direction of a licensed physician and surgeon or other appropriate licensed laboratory personnel and are not engaging in independent decision making or judgment.

ANALYSIS:

Existing law:

1) Provides for the licensure, registration, and regulation of clinical laboratories and various clinical laboratory personnel by the California Department of Public Health, with specified exceptions. (Business and Professions Code (BPC) § 1200-1327)

2) Defines, for purposes of state regulation of clinical laboratories, the following:

   a) "CLIA" to mean the federal Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. Sec. 263a; P.L. 100-578) and the regulations adopted thereunder by the federal Health Care Financing Administration and effective on January 1, 1994, or any later date, when adopted in California pursuant to subdivision (b) of Section 1208. (BPC § 1202.5(a))

   b) "Clinical laboratory" to mean any place used, or any establishment or institution organized or operated, for the performance of clinical laboratory tests or examinations or the practical application of the clinical laboratory sciences. That application may include any means that applies the clinical laboratory sciences. (BPC § 1206(a)(8))

   c) Prohibits a person from performing a clinical laboratory test or examination classified as waived under CLIA unless the clinical laboratory test or examination is performed under the overall operation and administration of the laboratory director, as described in Section 1209, including, but not limited to, documentation by the laboratory director of the adequacy of the qualifications and competency of the personnel, and the test is performed by specified personnel. (BPC § 1206.5(a))

3) States that no person shall perform clinical laboratory tests or examinations classified as of high complexity under CLIA unless the clinical laboratory test or examination is performed under the overall operation and administration of the laboratory director, where the test is performed by one of specified individuals (BPC § 1206.5(c) and Health and Safety Code (HSC) § 101150)

4) Permits, during a declared federal, state, or local emergency, the Board of Pharmacy (BOP) to waive application of any provisions of the Pharmacy Law or the regulations adopted pursuant to it if, in BOP's opinion, the waiver will aid in the protection of public health or the provision of patient care. (BPC § 4062 (b))

5) Permits BOP to continue to waive application of any provision of the Pharmacy Law for up to 90 days following the termination of the declared emergency if, in BOP's opinion, the continued waiver will aid in the protection of the public health or in the provision of patient care. (BPC § 4062 (d))

This bill:

1) Defines "assistance" as acting under the direction of a licensed physician and surgeon or appropriate and licensed laboratory personnel, other than a trainee, under direct and constant supervision, and during which time no independent decision making or judgment is exercised. Defines "supervision and control" as direction, management, and awareness of the activity of unlicensed laboratory personnel by a physician and surgeon or by a person licensed under this bill other than a trainee, who must be physically present in the laboratory and readily available for consultation during the entire time that the unlicensed laboratory personnel are engaged in the duties, as specified.

2) States the laboratory director will designate the supervisor and maintain overall responsibility for the supervision and performance of the unlicensed laboratory personnel.

3) Provides that that unlicensed laboratory personnel may perform any of the activities identified in 4) below can be done under the supervision and control of a physician and surgeon, or a person licensed in the clinical laboratory chapter of the Business and Professions Code other than a trainee, in a clinical laboratory by meeting all of the following criteria:

   a) Adds "working knowledge" to the criteria: "the skills [and working knowledge] required to perform preventative maintenance, and troubleshooting."

   b) Adds "stability, storage, and safety requirements related to chemical, biochemical, and electrical hazards and biohazardous materials" to the following criteria: a working knowledge of reagent [stability, storage, and safety requirements related to chemical, biochemical, and electrical hazards and biohazardous materials.]"

   c) Adds "a working knowledge of the medical terminology necessary for the transcription of results" as criteria.

4) States the laboratory director will maintain responsibility for the performance of unlicensed laboratory personnel and any delegated supervision or training of the unlicensed personnel.

5) States that activities that can be performed under direct and constant supervision include, in the case of qualitative and semiquantitative "spot, tablet, or stick" tests, the personnel may add the test reagent to the specimen or vice versa, but the results must be read by a physician and surgeon or person licensed under this chapter.

6) States an unlicensed laboratory personnel under the control of a physician and surgeon or a person licensed under the clinical laboratory statute in the Business and Professions Code can do all of the following:

   a) Perform biological specimen collection, including patient preparation, specimen labeling, handling, preservation or fixation, processing or preparation, transportation, and storage of specimens if the collection activities do not require a certificate or license, as specified.

   b) Complete preparation and storage of reagents and culture media.

   c) Transcribe results that have been previously recorded, either manually by a physician and surgeon or personnel licensed as specified, or automatically by a testing instrument, with documented verification by the physician and surgeon or licensed personnel who reports the test.

   d) Make primary or subsequent inoculations of test material onto appropriate culture media, stain slide preparations for microscopic examination, and subculture from liquid media for microbiological tests.

7) States unlicensed laboratory personnel will not do any of the following:

   a) Record test results, except as authorized as specified.

   b) Perform any test or part thereof that involves the quantitative measurement of the specimen or test reagent, or any mathematical calculation relative to determining the results or the validity of a test procedure, unless they are assisting a physician and surgeon or personnel licensed under this chapter, other than trainees, in a licensed clinical laboratory.

   c) Perform any phase of clinical laboratory tests or examinations in the specialty of immunohematology beyond initial collection and centrifugation, unless they are assisting a licensed physician and surgeon or personnel licensed under this chapter, other than trainees, in a licensed clinical laboratory.

   d) Release results of waived, moderate-, or high-complexity testing.

Background

Federal and State Regulation for Clinical Laboratory Testing. A facility that performs laboratory tests on human specimens for diagnosis or assessment must be certified under CLIA. CLIA certification requirements vary depending on the complexity of the laboratory tests performed.

Clinical laboratories or other testing sites need to know whether each test system used is waived, moderate, or high complexity. In general, the more complicated the test, the more stringent the requirements, including increased training and licensing of laboratory personnel. At a minimum, all laboratories must have a licensed clinical laboratory director. The FDA determines the complexity of CLIA laboratory tests. Waived tests are simple tests with a low risk for an incorrect result. They include tests listed in the CLIA regulations, tests cleared by the FDA for home use, and tests approved for waiver by the FDA using the CLIA criteria. Tests not classified as waived are assigned a moderate or high complexity category based on seven criteria given in the CLIA regulations, including ease of use, knowledge required, and types of materials tested. For commercially available FDA-cleared or approved tests, the test complexity is determined by the FDA during the pre-market approval process. While CLIA establishes minimum federal standards, it allows states to enact more stringent state law requirements.

Additional Authority In Response To the COVID-19 Pandemic. In the wake of the COVID-19 pandemic, federal and state governments expedited certain processes and waived certain requirements to protect the health and safety of the public. At the federal level, this meant providing emergency use authorizations for COVID-19 tests and vaccines.

In 2020, California undertook similar efforts to combat the COVID-19 pandemic. In March 2020, the Governor issued Executive Order N-25-20 (EO) to suspend statutes and regulations in support of the state's pandemic response efforts. One part of the EO states:

> The certification and licensure requirements of California Code of Regulations, Title 17, section 1079 and Business and Professions Code section 1206.5 are suspended as to all persons who meet the requirements under the Clinical Laboratory Improvement Amendments of section 353 of the Public Health Service Act for high complexity testing and who are performing analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in any certified public health laboratory or licensed clinical laboratory.

Therefore, anyone who meets the CLIA requirements for high complexity testing can perform analyses of samples to test for SARS-CoV-2, the virus that causes COVID-19, in any certified public health laboratory or licensed clinical laboratory. Professionals who are able to perform these tests due to the waiver include a physician, podiatrist, dentist, naturopathic doctor, person licensed to engage in clinical laboratory practice or to direct a clinical lab, physician assistant, perfusionist, respiratory care practitioner, medical assistant, pharmacist, naturopathic assistant, licensed optometrist, other health care personnel providing direct patient care, any other person performing non-diagnostic testing, as specified. This expansion of professionals allowed for the increased staff required to support California through the COVID-19 pandemic.

Given that this EO's authority relies on a Governor-issued state of emergency, and given that the Governor has stated that California's COVID-19 state of emergency will end on February 28, 2023, the EO would not have retained the force of law after this date.

ABs 269 and 1341. Earlier this year, AB 269 (Berman, Chapter 1, Statutes of 2023) authorized a person to perform an analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in a clinical laboratory or a city, county, or city and county public health laboratory if they meet certain requirements, without a sunset date. This bill adds a January 1, 2028 sunset date for these provisions. AB 1341 (Berman, 2023), which is currently moving through the Legislature also adds a sunset date of July 1, 2028, to the current provision that a person may perform an analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in a clinical laboratory if they meet the requirements under CLIA for high complexity testing, as specified. Authorizes a pharmacist to furnish COVID-19 oral therapeutics following a positive test for SARS-CoV-2, as specified, until January 1, 2025, among other things.

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

SUPPORT: (Verified 9/8/23)

California Clinical Laboratory Association (co-source)
Quest Diagnostics (co-source)
California Life Sciences

OPPOSITION: (Verified 9/8/23)

SEIU California

ARGUMENTS IN SUPPORT: Supporters argue that this bill will address critical shortages in clinical laboratory personnel, which will in turn allow California laboratories to meet testing demand in a timely manner.

ARGUMENTS IN OPPOSITION: SEIU California writes, "This bill would remove training requirements and create the potential for significant patient harm. For example, making a mistake with lab reagents can lead to destroying tissue samples. With a single machine that can hold 30-40 slides, a mistake can impact 30-40 samples, which is particularly problematic in bone marrow smears which are extremely painful processes to collect on a patient… Put simply, AB 1741 puts the financial bottom line above patient care by eroding lab safety standards to the detriment of the professionals we represent and the patients we serve."

ASSEMBLY FLOOR: 70-0, 5/31/23
AYES: Addis, Alanis, Alvarez, Bains, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Lackey, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon
NO VOTE RECORDED: Aguiar-Curry, Arambula, Boerner, Kalra, Lee, Ortega, Reyes, Robert Rivas, Santiago, Schiavo

Prepared by: Dana Shaker / B., P. & E.D. /
9/11/23 12:23:51

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

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

THIRD READING

Bill No: ACA 1
Author: Aguiar-Curry (D), Berman (D), Haney (D), Lee (D) and Wicks (D), et al.
Amended: 9/5/23 in Assembly
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 5-2, 9/11/23
AYES: Glazer, Allen, McGuire, Menjivar, Umberg
NOES: Nguyen, Newman

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/12/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 55-12, 9/6/23 - See last page for vote

SUBJECT: Local government financing: affordable housing and public infrastructure: voter approval

SOURCE: California Professional Firefighters
California State Building and Construction Trades Council

DIGEST: This constitutional amendment, subject to voter approval, allows a city, county, or special district, with 55% voter approval, to incur bonded indebtedness or impose specified special taxes to fund projects for affordable housing, permanent supportive housing, or public infrastructure, as specified.

ANALYSIS:

Existing law:

1) Defines a "general tax" as any tax imposed for general governmental purposes.

2) Defines a "special tax" as any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

3) Specifies that all taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

4) Prohibits a local government from imposing, extending, or increasing a general tax unless and until that tax is submitted to the electorate and approved by a majority vote.

5) Prohibits a local government from imposing, extending, or increasing a special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote.

6) Authorizes a city, county, or special district, by a two-thirds vote of the qualified electors of such district, to impose special taxes on such district, except ad valorem taxes on real property or a transaction or sales tax on the sale of real property within such city, county, or special district.

7) Caps the maximum amount of any ad valorem tax on real property at 1% of the property's full cash value. Provides that this limitation does not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition, or bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, approved by 55% of the voters of the district or county. Provides that any such proposition relating to school facilities must include specified accountability requirements, including an annual, independent performance audit.

8) Provides that every constitutional amendment, bond measure, or other legislative measure submitted to the people by the Legislature shall appear on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature.

9) Provides that a proposed amendment or revision to the California Constitution, if approved by a majority of votes cast thereon, takes effect on the fifth day after the Secretary of State files the statement of the vote for the election at which the measure is voted on, but the measure may provide that it becomes operative after its effective date.

This constitutional amendment:

1) Allows a city, county, city and county, or special district to incur indebtedness in the form of general obligation bonds to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness, or the acquisition or lease of real property for public infrastructure, affordable housing, or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness, to be approved by 55% of the voters voting on the proposition on or after the effective date of the measure adding this provision. This provision shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness all of the specified accountability requirements, including:

   a) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in 1) above, and not for any other purpose, including city, county, city and county, or special district employee salaries and other operating expenses. Provides that the administrative costs shall not exceed 5% of the proceeds from the sale of the bonds.

   b) The specific local program or ordinance through which projects will be funded and a certification that the city, county, city and county, or special district has evaluated alternative funding sources.

   c) A requirement that the city, county, city and county, or special district conduct an annual, independent performance audit to ensure that the funds have been expended pursuant to the local program or ordinance specified in b) above.

   d) A requirement that the city, county, city and county, or special district conduct an annual, independent financial audit of the proceeds from the sale of bonds until all of those proceeds have been expended for the public infrastructure or affordable housing projects, as applicable.

   e) A requirement the above audits be submitted to the California State Auditor for review.

   f) A requirement that the city, county, city and county, or special district post the audits in a manner that is easily accessible to the public.

   g) A requirement that the city, county, city and county, or special district appoint a citizens' oversight committee to ensure that bond proceeds are expended only for the purposes described in the measure approved by the

voters. Members appointed to an oversight committee shall receive financial educational training.

h) A requirement that proceeds from the sale of the bonds only be spent on projects and programs that serve the jurisdiction of the city, county, city and county, or special district.

i) A requirement that an entity owned or controlled by a local official that votes on whether to put a proposition on the ballot will be prohibited from bidding on any work funded by the proposition.

2) Specifies that a city, county, city and county, or special district may levy a 55% vote ad valorem tax pursuant to 1), above.

3) Specifies that the imposition, extension, or increase of a sales and use tax, a transactions and use tax, or a parcel tax imposed by a local government for the purposes of funding the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness, or the acquisition or lease of real property for infrastructure, affordable housing, or permanent supportive housing for persons at risk of chronic homelessness, including persons with mental illness, is subject to approval by 55% of the voters in the local government voting on the proposition, if both of the following conditions are met:

a) The proposition is approved by a majority of the membership of the governing board of the local government.

b) The proposition contains similar accountability requirements as 1) above.

4) Limits the number of propositions authorized by the measure a local government can place on the ballot until all funds from a proposition have been committed, as specified.

5) Authorizes the Legislature, by two-thirds vote, to enact laws establishing accountability measures in addition to those listed in this measure provided such laws are consistent with this constitutional amendment.

6) Specifies that the Legislature may, by majority vote, enact laws for the downpayment assistance programs, as specified.

7) Specifies that a special district, other than a board of education or school district, shall not incur any indebtedness or liability exceeding any applicable

statutory limit, as prescribed by the statutes governing the special district as they currently read or may thereafter be amended by the Legislature.

8) Allows the voter approval thresholds specified above in 1) and 3), above, to apply to a local measure imposing, extending, or increasing a sales and use tax, a transactions and use tax, a parcel tax, or general obligation bonded indebtedness for the purposes specified above, submitted to voters at the same election as ACA 1.

9) Provides that in the event that this constitutional amendment and another measure or measures relating to state or local requirements for the imposition, adoption, creation, or establishment of taxes, charges, and other revenue measures shall appear on the same statewide election ballot, the other measure or measures shall be deemed to be in conflict with this measure. In the event that this constitutional amendment receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

Background

Special Taxes. The California Constitution states that taxes local governments levy are either general taxes, subject to majority voter approval, or special taxes, subject to two-thirds vote (Article XIII C), which local agencies use for specified purposes. Proposition 13 (1978) required a two-thirds vote of each house of the Legislature for state tax increases, and two-thirds vote for local special taxes. Proposition 62 (1986) prohibited local agencies from imposing general taxes without majority approval of local voters. Proposition 218 (1996) extended those vote thresholds to charter cities and limited local agencies' powers to levy new assessments, fees, and taxes.

Bonds. Article XVI, Section 18 of the California Constitution generally prohibits cities, counties, and school districts from incurring any debt or liabilities exceeding any year's revenues without two-thirds voter approval. One of the most common reasons local agencies incur debt is to raise sufficient capital for a project or cost that the local agency does not have sufficient cash on hand to immediately finance, such as a public infrastructure project, and promise to pay off the principal and interest on that debt over time. General obligation bonds, in the local government context, refer to bonds payable from ad valorem property tax revenue. These typically require two-thirds voter approval. However, Proposition 39 (2000) amended the Constitution to decrease the two-thirds approval requirement to 55% percent for school districts, community college districts, or county offices of

education, to issue general obligation bonds for the construction or rehabilitation of school facilities.

Comments

According to the author, under current law, local officials propose a local bond or special tax, and then it is up to the voters in that community to decide whether they support the idea or not. Local governments and local voters know best what their communities need. In some neighborhoods, this means a new library or fire station; in others this means an increase in the affordable housing stock, or connecting their constituents to municipal broadband service. These investment initiatives often fail to reach the legal requirement of a two-thirds vote, a threshold under which opponents' votes count twice as much as those community members who support infrastructure investments.

ACA 1 will empower local governments to address local priorities without needing to wait for state and federal funding initiatives. Voters would still need to overwhelmingly support a bond or special tax in order for it to be approved with 55 percent of the vote.

ACA 1 will level the playing field and create parity between school districts and cities, counties, and special districts, so that all local governments have a viable financing tool to address community needs. It also contains historic transparency and accountability measures, including a specific expenditure plan for the projects and programs proposed, annual financial and performance audits which are reviewed by the Bureau of State Audits, monitoring by a citizens' commission with members who've received financial training to assure resources are being spent as proposed, and a cap on the administrative expenses at 5%.

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

According to the Senate Appropriations Committee, this constitutional amendment would result in one-time General Fund costs to the Secretary of State in the range of $738,000 to $984,000, likely in 2023-24, for printing and mailing costs to place the measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.

SUPPORT: (Verified 9/12/23)

California Professional Firefighters (co-source)
California State Building and Construction Trades Council (co-source)
AARP California

Abode Communities
Abundant Housing LA
Affirmed Housing
AIDS Healthcare Foundation
All Home
Alta Housing
American Council of Engineering Companies, California
American Federation of State, County and Municipal Employees, AFL-CIO
American Planning Association
American Society of Civil Engineers
Associated General Contractors, California Chapter
Association of Bay Area Governments – Metropolitan Transportation Commission
Brilliant Corners
California Alliance for Jobs
California Asphalt Pavement Association
California Association of Local Housing Finance Agencies
California Association of Recreation and Park Districts
California Association of Resource Conservation Districts
California Conference of Carpenters
California Construction and Industrial Materials Assoc.
California Democratic Party
California Fire Chiefs Association
California Housing Consortium
California Housing Partnership
California IATSE Council
California Labor Federation
California Library Association
California School Employees Association
California Special Districts Association
California State Association of Counties
California State Association of Electrical Workers
California State Council of Laborers
California Stormwater Quality Association
California Transit Association
California YIMBY
Canal Alliance
Circulate San Diego
City and County of San Francisco
City of Alameda
City of Belmont

City of Emeryville
City of Fremont
City of Glendale
City of Half Moon Bay
City of Hayward
City of Kingsburg
City of Long Beach
City of Oakland
City of Palo Alto
City of Petaluma
City of Redwood City
City of San Diego
City of San Luis Obispo
City of Santa Monica
City of Santa Rosa
City of Soledad
City of Tulare
City of Walnut Creek
City of West Hollywood
City of West Sacramento
City of Winters
CivicWell
College Democrats of Sacramento State University
Council of Community Housing Organizations
County of Marin
County of Mono
County of Santa Clara
County of Yolo
Desert Recreation District
Destination: Home
Devine & Gong, Inc.
District Hospital Leadership Forum
EAH Housing
East Bay for Everyone
East Bay Housing Associations
East Bay Municipal Utility District
East Bay YIMBY
Eden Housing
Enterprise
Evolve California

Fire Districts Association of California
Generation Housing
Grow the Richmond
Habitat for Humanity California
Housing Crisis Action
Housing Leadership Council of San Mateo County
Housing Trust Silicon Valley
How To ADU
International Union of Operating Engineers, Cal-Nevada Conference
League of California Cities
League of Women Voters of California
Local Initiatives Support Corporation Bay Area
Mercy Housing California
Metropolitan Transportation Commission
MidPen Housing Corporation
Midpeninsula Regional Open Space District
Mission Housing Development Corporation
Monterey Bay Economic Partnership
Mountain View YIMBY
Move LA
Mutual Housing California
Napa-Solano for Everyone
Non-Profit Housing Association of Northern California
Nor Cal Carpenters Union
North Bay Leadership Council
Northern Neighbors
Old Valley Homes and Loans
PATH
Peninsula Corridor Joint Powers Board
Peninsula for Everyone
People for Housing Orange County
Professional Engineers in California Government
Progress Noe Valley
Public Policy Advocates
Rebuild SoCal Partnership
Regional Asthma Management and Prevention
Resources for Community Development
Rural County Representatives of California
San Francisco Bay Area Planning and Urban Research Association
San Francisco Foundation

San Francisco Housing Accelerator Fund
San Francisco Housing Development Corporation
San Francisco YIMBY
San Joaquin Valley Housing Collaborative
San Luis Obispo YIMBY
San Mateo County Transit District
San Ramon Valley Fire Protection District
Santa Clara Valley Water District
Santa Cruz YIMBY
Santa Rosa YIMBY
Save the Bay
Seifel Consulting, Inc.
Sierra Business Council
SLO Co YIMBY
Solano Transportation Authority
Sonoma County Area Agency on Aging
South Bay YIMBY
South Side Forward
Southern California Contractors Association
St. Mary's Center
State Building and Construction Trades Council of California
Streets for People
SV@HomeActionFund
Tenderloin Neighborhood Development Corp.
Transportation California
Tri-Valley Cities of Dublin, Livermore, Pleasanton, San Ramon, and the Town of Danville
United Contractors
United Way Bay Area
Urban Counties of California
Urban Environmentalists
Valley Water
Ventura County YIMBY
Washington Hospital Healthcare System
Western Center on Law and Poverty
Western Regional Association for Pavement Preservation
YIMBY Action

OPPOSITION: (Verified 9/12/23)

Affordable Housing Management Association – Pacific Southwest

Alameda County Taxpayers Association
Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Apartment Owners Association of America, California
Building Owners and Managers Association
California Association of Realtors
California Attractions and Parks Association
California Business Properties Association
California Cattlemen's Association
California Chamber of Commerce
California Independent Petroleum Association
California Land Title Association
California Manufacturers and Technology Association
California Railroads
California Rental Housing Association
California Retailers Association
California Self Storage Association
California Taxpayer Association
California Taxpayer Protection Committee
Catalysts for Local Control
Central Coast Taxpayers Association
Central Valley Taxpayers Association
Coalition of Labor, Agriculture, and Business, Santa Barbara County
Coalition of Sensible Taxpayers
Contra Costa Taxpayers Association
East Bay Rental Housing Association
Escrow Institute of California
Family Business Association of California
Glendora Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Howard Jarvis Taxpayers Association
Kern County Taxpayers Association
Laguna Niguel Chamber of Commerce
NAIOP: Commercial Real Estate Development Association
National Federation of Independent Businesses
Orange County Business Council
Orange County Taxpayers Association
Placer County Taxpayers Association
San Diego Tax Fighters
San Gabriel Valley Economic Partnership

Silicon Valley Leadership Group
Silicon Valley Taxpayers Association
Solano County Taxpayers Association
Southern California Rental Housing Association
Sutter County Taxpayers Association
United Hospital Association
Valley Industry and Commerce Association
Ventura County Taxpayers Association
Western Manufactured Housing Communities Association

ASSEMBLY FLOOR: 55-12, 9/6/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Quirk-Silva, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Ting, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Megan Dahle, Dixon, Essayli, Vince Fong, Gallagher, Hoover, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta
NO VOTE RECORDED: Bains, Chen, Davies, Flora, Grayson, Lackey, Petrie-Norris, Ramos, Schiavo, Soria, Valencia, Waldron, Wallis

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/13/23 11:29:20

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

SENATE RULES COMMITTEE ACA 13
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACA 13
Author: Ward (D), et al.
Amended: 9/11/23 in Senate
Vote: 27

SENATE ELECTIONS & C.A. COMMITTEE: 6-1, 9/11/23
AYES: Glazer, Allen, McGuire, Menjivar, Newman, Umberg
NOES: Nguyen

SENATE APPROPRIATIONS COMMITTEE: 5-2, 9/12/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

ASSEMBLY FLOOR: 57-19, 9/6/23 - See last page for vote

SUBJECT: Voting thresholds

SOURCE: California School Employees Association, AFL-CIO
SEIU California

DIGEST: This constitutional amendment, subject to voter approval, requires an initiative constitutional amendment to comply with any increased voter approval threshold that it seeks to impose on future ballot measures. This measure also enshrines in the state constitution the ability of local governments to submit advisory questions to voters.

ANALYSIS:

Existing law:

1) Permits voters to propose statutes or amendments to the California Constitution by initiative.

2) Provides that a state initiative statute that is approved by a majority of votes cast thereon takes effect on the fifth day after the Secretary of State (SOS) files the statement of the vote for the election at which the measure is voted on.

3) Provides that a proposed constitutional amendment that is approved by a majority of votes cast thereon takes effect on the fifth day after the SOS files the statement of the vote for the election at which the measure is voted on.

4) Permits each city, county, school district, community college district, county board of education, and special district to hold an advisory election for the purpose of allowing voters to voice their opinions on substantive issues, as specified.

5) Provides that every constitutional amendment, bond measure, or other legislative measure submitted to the people by the Legislature shall appear on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature.

6) Provides that a proposed amendment or revision to the California Constitution, if approved by a majority of votes cast thereon, takes effect on the fifth day after the SOS files the statement of the vote for the election at which the measure is voted on, but the measure may provide that it becomes operative after its effective date. Provides that if provisions of two or more measures approved at the same election conflict, the provisions of the measure receiving the highest number of affirmative votes shall prevail.

This constitutional amendment:

1) Provides that an initiative measure that includes one or more provisions that amend the California Constitution, and that increases the voter approval requirement to adopt any state or local measure, must receive a proportion of votes in favor of the initiative that is equal to or greater than the highest voter approval requirement imposed by the initiative for the adoption of a state or local measure.

2) Permits a local governing body, at any election, to hold an advisory vote concerning any issue of governance for the purpose of allowing voters within the jurisdiction to voice their opinions on the issue. Provides that an advisory question is approved only if a majority of the votes cast on the question are in

favor. Provides that the results of the advisory vote are not controlling on the local governing body.

3) Provides that the provisions of this amendment apply to all statewide initiative measures submitted to the electors on or after January 1, 2024, including measures that appear on the ballot at the same election at which the measure adding this section is approved by the electors.

4) Contains intent language stating that the provisions of this measure are not intended to reverse or invalidate provisions of the California Constitution in effect before January 1, 2024, including the provisions of Proposition 13 of 1978.

5) Provides that this measure shall be known, and may be cited, as the Protect and Retain the Majority Vote Act.

6) Contains a severability clause.

7) Makes a conforming change.

Background

Supermajority Vote Requirements. Under existing law, any state ballot measure can be approved by a simple majority vote of the electorate, regardless of the changes to state law made by the measure. By contrast, some local ballot measures are subject to higher vote requirements. For example, a local measure that is placed on the ballot by a local governing body that proposes a special tax (a tax for which the proceeds will be used for a specific purpose) requires a two-thirds vote of the electorate.

If this measure qualifies for the ballot and is approved by voters, it would mark the first time that any state ballot measure would require more than a simple majority vote to be approved. Specifically, state ballot measures that (1) are initiative measures (the term "initiative" refers exclusively to a proposed law that qualifies for the ballot through the collection of voters' signatures on an initiative petition), (2) propose to amend the state constitution, and (3) propose to increase the vote required for voters to approve a state or local ballot measure would be subject to a voter approval threshold that is greater than a simple majority vote.

The provisions of ACA 13 would apply to any initiative constitutional amendment that appears on the ballot in the future and proposes to increase the vote

requirement for a state or local ballot measure. ACA 13 does not affect vote thresholds currently in effect.

Prior Effort to Impose Supermajority Vote Requirement on State Ballot Measures. Notwithstanding the fact that all state ballot measures require a simple majority to pass, at least one prior initiative measure sought to impose a supermajority vote requirement on certain state ballot measures.

Specifically, Proposition 136, which appeared on the ballot at the November 1990 statewide general election, would have required any state special taxes that were proposed by a state initiative measure to be approved by two-thirds of the voters, among other provisions. Proposition 136 failed narrowly, receiving 47.9% of the vote.

Voter Approval Thresholds Only. The provisions of this measure related to the vote requirement for initiative constitutional amendments apply only to initiatives that seek to make it more difficult for voters to take a specified action by approving a ballot measure. It does not affect the vote requirement for initiative constitutional amendments that seek only to make it harder for a governmental body to approve a specified action by increasing the vote by which that body must approve an action.

For example, an initiative constitutional amendment that required a two-thirds vote of the local electorate to approve any ballot measure that sought to rezone parcels would need to be approved by two-thirds of the voters if this measure takes effect. By contrast, an initiative constitutional amendment that required a two-thirds vote of a local governing body to rezone parcels would be subject to a simple majority vote (provided that the initiative did not also include other provisions that affected the vote requirement for actions taken by voters).

Pending Initiative. On February 1, 2023, the SOS certified that initiative #1935—a measure that would amend the California Constitution to change the rules for how the state and local governments can impose taxes, fees, and other charges—is eligible to appear on the ballot at the November 5, 2024, statewide general election. The proponent of that initiative can withdraw it at any time through June 27, 2024. If the proponent does not withdraw the initiative by that deadline, the SOS will certify that the measure is qualified and it will appear on the November 5, 2024, statewide general election ballot.

Among other provisions, initiative #1935 requires that any local special tax be approved by a two-thirds vote of the electorate to take effect. Recent case law suggests that local special taxes that are proposed by a local initiative measure can be approved by a majority vote of the electorate. By contrast, local special taxes that are placed on the ballot by a local governmental body must be approved by a two-thirds vote of the electorate. Additionally, initiative #1935 prohibits an advisory measure from appearing on the same ballot as a local measure that proposes a general tax if the advisory measure would indicate that the revenue from the general tax will, could, or should be used for a specific purpose.

If this measure applied to the voter's consideration of initiative #1935, it appears that initiative #1935 would need to be approved by two-thirds of the voters in order to take effect. However, while this measure likely would affect the vote requirement for initiative #1935, its effects are not limited to that initiative. The provisions of ACA 13 would apply to any initiative constitutional amendment that appears on the ballot in the future and that proposes to increase the vote requirement for a state or local ballot measure.

Advisory Measures. As detailed above, the California Elections Code already permits cities, counties, school districts, community college districts, county boards of education, and special districts to submit advisory questions to their voters. This measure proposes to add a similar provision to the state constitution.

As detailed above, a pending initiative measure that is eligible to appear on the November 5, 2024, statewide general election ballot would limit the ability of a local government to place an advisory measure on the ballot if the measure is related to the potential use of revenues derived from a general tax that is appearing on the same ballot. If approved by voters, that constitutional limitation on local advisory measures would prevail over the general provisions of the Elections Code that permit local advisory measures.

If both this measure and the pending initiative measure were to be approved by voters, the California Constitution would include potentially conflicting provisions governing local advisory measures. In such a situation, it is unclear which provision would prevail if a local jurisdiction sought to place an advisory measure on the ballot related to the use of revenues from a general tax appearing on the same ballot.

Comments

According to the author, the Protect and Retain the Majority Vote Act, ACA 13, would give Californians the right to vote on retaining the majority vote requirement for passage of state and local initiatives. ACA 13 will require proposed initiatives that seek to increase vote thresholds on future ballot measures to pass with that same proportional higher vote threshold. For example, a measure that would impose a two-thirds vote threshold on future measures should also pass with a two-thirds vote.

Cities and counties also often place non-binding advisory measures on the ballot to allow voters to weigh in on various issues. This is a critical tool that allows voters to advise local government, and ACA 13 would protect the right of cities to place advisory questions on the ballot to ask voters their opinion on issues.

With a pattern of abuse of our initiative process to use a lower threshold to set higher thresholds for future voters – and worse, using this tactic to extract legislative action for special interests – the time is right for the Legislature to reflect a protection afforded in the Oregon Constitution since 1998 and adopt ACA 13 to send to the voters for their consideration.

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

According to the Senate Appropriations Committee, this measure would result in one-time General Fund costs to the Secretary of State (SOS) in the range of $738,000 to $984,000, likely in 2023-24, for printing and mailing costs to place the measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.

SUPPORT: (Verified 9/12/23)

California School Employees Association, AFL-CIO (co-source)
SEIU California (co-source)
AAPIs for Civic Empowerment – Education Fund
ACLU California Action
American Federation of State, County and Municipal Employees, AFL-CIO
Alameda County Early Care and Education Planning Council
Alameda County Mosquito Abatement District
Alliance for a Better Community
Alliance for Community Transit
Alliance of Californians for Community Empowerment Action
Alliance San Diego

American Council of Engineering Companies
Antelope Valle Mosquito and Vector Control District
Apple Valley Fire Protection District
Arcade Creek Recreation and Park District
Arden Park Recreation and Park District
Artesia Cemetery District
Asian Pacific Environmental Network
Association of California Water Agencies
Atascadero Cemetery District
Bear Valley Water District
Berkeley Fire Department
Bighorn-Desert View Water Agency
Bonita Sunnyside Fire Protection District
Brilliant Corners
Burney Fire Protection District
California Association of Recreation & Park Districts
California Black Power Network
California Calls
California Common Cause
California Community Foundation
California Conference of Carpenters
California Conference of Machinists
California Conference of the Amalgamated Transit Union
California Environmental Justice Alliance
California Environmental Voters
California Faculty Association
California Federation of Teachers
California Green New Deal Coalition
California Healthy Nail Salon Collaborative
California Housing Partnership
California Labor Federation
California Municipal Utilities Association
California Professional Firefighters
California School Employees Association
California Special Districts Association
California State Association of Counties
California Teachers Association
California Teamsters
CalNonprofits
Catalyst California

Center on Policy Initiatives
Central Coast United for a Sustainable Economy
Central Contra Costa County Sanitary District
City of Alameda
City of Anaheim
City of Avalon
City of Arcata
City of Azusa
City of Belmont
City of Berkeley Fire Department
City of Brentwood
City of Buena Park
City of Burbank
City of Chino Hills
City of Chula Vista
City of Cloverdale
City of Concord
City of Cotati
City of Cypress
City of Elk Grove
City of Fairfield
City of Fortuna
City of Glendale
City of Half Moon Bay
City of Inglewood
City of Irvine
City of Kerman
City of King
City of Lakewood
City of Long Beach
City of Los Alamitos
City of Los Angeles
City of Manhattan Beach
City of Mission Viejo
City of Mountain View
City of Napa
City of Newark
City of Norco
City of Norwalk
City of Novato

City of Oakland
City of Oceanside
City of Ontario
City of Pacifica
City of Palo Alto
City of Pasadena
City of Petaluma
City of Pismo Beach
City of Placentia
City of Pleasanton
City of Rancho Cucamonga
City of Riverside
City of Roseville
City of Sacramento
City of San Diego
City of San Fernando
City of San Francisco
City of San José
City of San Luis Obispo
City of San Pablo
City of Santa Barbara
City of Santa Rosa
City of Shasta Lake
City of Soledad
City of Stanton
City of Sunnyvale
City of Tehachapi
City of Tustin
City of Ukiah
City of Upland
City of Visalia
City of Walnut Creek
City of West Hollywood
Coalition for Humane Immigrant Rights
Coastside County Water District
Communities for a Better Environment
Communities for a New California
Community Coalition
Congregations Organized for Prophetic Engagement
Contra Costa County

Costa Mesa Sanitary District
Cosumnes Community Services District
Courage California
Desert Recreation District
Dolores Huerta Foundation
Eden Health District
El Toro Water District
End Poverty in California
Evolve California
Fort Bragg Fire Protection Authority
Fresno Mosquito and Vector Control District
Gold Mountain Community Service District
Goleta West Sanitary District
GPSN
GRACE – End Child Poverty in California
Groveland Community Services District
Hanford Fire Department
Health Access California
Helix Water District
Housing California
Human Impact Partners
Humboldt Bay Municipal Water District
IBEW Local 569
IFPTE Local 20
Innercity Struggle
Koreatown Immigrant Workers Alliance
League of California Cities
League of Women Voters of California
Lift up Contra Costa
Livermore Area Recreation and Park District
Los Angeles Alliance for a New Economy
Los Angeles Forward
Lutheran Office of Public Policy – California
Mammoth Community Water District
Mayor Ashleigh Aitken (Anaheim)
Mayor Farrah Khan (Irvine)
Mayor Karen Bass (Los Angeles)
Mayor London Breed (San Francisco)
Mayor Matt Mahan (San José)
Mayor Patricia Lock Dawson (Riverside)

Mayor Rex Richardson (Long Beach)
Mendocino Fire Protection District
Midpeninsula Regional Open Space District
Million Voters Project
Monte Vista Water District
Monterey Peninsula Regional Park District
Mutual Housing California
National Association of Social Workers - California Chapter
North Central Fire Protection District
North County Fire Protection District
Oakland Rising
Olympic Valley Public Service District
Otay Water District
Parent Voices Oakland
Physicians for Social Responsibility – LA
PowerSwitch Action
Public Advocates
Rancho Adobe Fire Protection District
Rim of the World Recreation and Park District
Rising Communities
Ross Valley Sanitary District
Sacramento Suburban Water District
Safe Return Project
San Diego for Every Child
San Francisco Rising
San Joaquin County Mosquito and Vector Control District
San Ramon Valley Fire Protection District
Santa Clara Valley Water District
Santa Clara Valley Open Space Authority
Sonoma Water
Southern California Association of Non-Profit Housing
Southern Marin Fire Protection District
Summerland Sanitary District
Stege Sanitary District
Strategic Concepts in Organizing and Policy Education
Tahoe City Public Utility District
Three Valleys Municipal Water District
Town of Apple Valley
Town of Corte Madera
Town of Discovery Bay, CSD

TreePeople
Truckee Sanitary District
UNITE-HERE
United Domestic Workers/AFSCME Local 3930
Utility Workers Union of America
Valley Sanitary District
Vista Irrigation District
Voices in Solidarity Against Oil in Neighborhoods
Working Partnerships USA
YMCA of San Diego County

OPPOSITION: (Verified 9/12/23)

Anaheim Chamber of Commerce
Brea Chamber of Commerce
Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Brea Chamber of Commerce
Building Owners and Managers Association of California
California Association of Realtors
California Building Industry Association
California Business and Industrial Association
California Business Properties Association
California Business Roundtable
California Chamber of Commerce
California Farm Bureau
California Farm Workers and Families
California Forestry Association
California Fuels and Convenience Alliance
California Hispanic Chambers of Commerce
California Hotel and Lodging Association
California Manufacturers and Technology Association
California Rental Housing Association
California Retailers Association
California Taxpayer Protection Committee
California Taxpayers Association
Carlsbad Chamber of Commerce
Central Coast Taxpayers Association
Central Valley Business Federation
Central Valley Taxpayers Association
Chino Valley Chamber of Commerce

Citrus Heights Chamber of Commerce
Contra Costa Taxpayers Association
Dana Point Chamber of Commerce
Danville Area Chamber of Commerce
Fontana Chamber of Commerce
Fremont Chamber of Commerce
Garden Grove Chamber of Commerce
Gateway Chambers Alliance
Greater High Desert Chamber of Commerce
Greater Irvine Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Half Moon Bay Coastside Chamber of Commerce
Howard Jarvis Taxpayers Association
Imperial Valley Regional Chamber of Commerce
Inland Empire Latino Coalition – San Bernardino-Riverside Counties
Jesse Miranda Center for Hispanic Leadership
La Cañada Flintridge Chamber of Commerce
Laguna Niguel Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Livermore Valley Chamber of Commerce
Lodi Chamber of Commerce
Long Beach Area Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles Business Federation
Los Angeles County Taxpayers Association
Mission Viejo Chamber of Commerce
NAIOP of California
National Diversity Coalition
National Federation of Independent Business – California
Norwalk Chamber of Commerce
Oceanside Chamber of Commerce
Orange Chamber of Commerce
Orange County Business Council
Orange County Taxpayers Association
Palm Desert Area Chamber of Commerce
Palos Verdes Peninsula Chamber of Commerce
Paso Robles and Templeton Chamber of Commerce
Placer County Taxpayers Association
Redondo Beach Chamber of Commerce
Sacramento Taxpayer Association

San Diego Tax Fighters
Santa Ana Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Silicon Valley Taxpayers Association
Simi Valley Chamber of Commerce
Solano County Taxpayers Association
South Bay Association of Chambers of Commerce
Southern California Leadership Council
Sutter-Yuba Taxpayers Association
The Chamber of Commerce for Greater Brawley
Torrance Area Chamber of Commerce
Tulare Chamber of Commerce
United Chambers of the San Fernando Valley
United Latinos Action
Vacaville Chamber of Commerce
Valley Industry and Commerce Alliance
Ventura County Taxpayers Association
Walnut Creek Chamber of Commerce
Whittier Together
Women Veterans Alliance
Yorba Linda Chamber of Commerce
Yuba-Sutter Chamber of Commerce
16,000+ Individuals

ASSEMBLY FLOOR: 57-19, 9/6/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Ting, Valencia, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Quirk-Silva, Sanchez, Ta, Waldron, Wallis

NO VOTE RECORDED: Bains, Grayson, Schiavo, Soria

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/13/23 11:29:19

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

SENATE RULES COMMITTEE ACR 84
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: ACR 84
Author: Wendy Carrillo (D), et al.
Introduced: 5/22/23
Vote: 21 >

ASSEMBLY FLOOR: Read and adopted, 6/12/23

SUBJECT: The 80th Anniversary of the Zoot Suit Riots

SOURCE: Author

DIGEST: This resolution commemorates June 2023 as the 80th Anniversary of the Zoot Suit Riots.

ANALYSIS: This resolution makes the following legislative findings:

1) June 2023 marks the 80th Anniversary of the Zoot Suit Riots.

2) The Zoot Suit Riots were a series of conflicts that occurred in June 1943 in the City of Los Angeles between United States servicemen and Mexican American youths, the latter of whom wore outfits called zoot suits.

3) The zoot suit consisted of a broad-shouldered drape jacket, balloon-leg trousers, and, sometimes, a flamboyant hat.

4) Mexican and Mexican American youths who wore these outfits were called zoot-suiters.

5) These individuals referred to themselves as pachucos, a name linked to the Mexican American generation's rebellion against both the Mexican and American cultures.

6) Workers were needed in the agricultural and service sectors of the United States to fill the jobs vacated by those who were serving in the military.

7) An agreement was reached with Mexico whereby temporary workers from Mexico were brought into the United States.

8) This influx of Mexican workers was not particularly welcomed by White Americans.

9) There were regulations prohibiting the manufacturing of zoot suits, but a network of bootleg tailors continued to manufacture them.

10) This exacerbated racial tensions, as Mexican American youths wearing the zoot suits were seen as un-American because they were deliberately ignoring the rationing regulations.

11) The Zoot Suit Riots are commonly associated with the Sleepy Lagoon murder, which occurred in August 1942.

12) On the night of August 1, 1942, zoot-suiters were involved in a fight at a party near the Sleepy Lagoon.

13) The next morning, one of the partygoers, José Díaz, was dead.

14) Several of the zoot-suiters who were arrested were tried and, in January 1943, convicted of murder.

15) However, many people denounced the circus atmosphere of the trial and attacked the verdict as a miscarriage of justice.

16) The convictions of the Mexican American youths were later reversed on appeal in October 1944.

17) On the basis of the news reports, more and more people began to believe that the Mexican American youths, particularly the zoot-suiters, were predisposed to committing crime.

18) It was in this racially charged atmosphere that the conflict between predominantly White servicemen stationed in southern California and Mexican American youths in the area began.

19) Within months of the Sleepy Lagoon convictions, the City of Los Angeles erupted in what are commonly referred to as the Zoot Suit Riots.

20) The riots began on June 3, 1943, after a group of sailors stated that they had been attacked by a group of Mexican American zoot-suiters.

21) As a result, on June 4, a number of uniformed sailors chartered cabs and proceeded to the Mexican American community, seeking out the zoot-suiters.

22) Many zoot-suiters were beaten by servicemen and stripped of their zoot suits on the spot.

23) The worst of the rioting occurred on the night of June 7, when thousands of servicemen and citizens prowled the streets of the downtown City of Los Angeles, attacking zoot-suiters as well as members of minority groups who were not wearing zoot suits.

24) In response to these confrontations, police arrested hundreds of Mexican American youths, many of whom had already been attacked by servicemen.

25) There were also reports of Mexican American youths requesting to be arrested and locked up in order to protect themselves from the servicemen in the streets.

26) In contrast, very few sailors and soldiers were arrested during the riots.

27) Shortly after midnight on June 8, military officials declared the City of Los Angeles off-limits to all military personnel.

28) The next day, the Los Angeles City Council passed a resolution that banned the wearing of zoot suits on the City of Los Angeles streets.

29) The number of attacks dwindled, and the rioting had largely ended by June 10.

30) In the following weeks, however, similar disturbances occurred in other states.

31) Remarkably, no one was killed during the riots, although many people were injured.

32) The fact that considerably more Mexican Americans than servicemen were arrested, upward of 600 of the former, according to some estimates, fueled criticism of the Los Angeles Police Department's response to the riots from some quarters.

33) As the riots died down, California Governor Earl Warren ordered the creation of a citizens' committee to investigate and determine the cause of the Zoot Suit Riots.

34) The committee's report indicated that there were several factors involved, but that racism was the central cause of the riots and that it was exacerbated by the

response of the Los Angeles Police Department, as well as by biased and inflammatory media coverage.

35) The City of Los Angeles Mayor Fletcher Bowron, concerned about the riots' negative impact on the city's image, issued his own conclusion, stating that racial prejudice was not a factor and that the riots were caused by juvenile delinquents.

This resolution commemorates June 2023 as the 80th Anniversary of the Zoot Suit Riots.

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

SUPPORT: (Verified 6/21/23)

50th Chicano Moratorium Committee

OPPOSITION: (Verified 6/21/23)

None received

ARGUMENTS IN SUPPORT: 50th Chicano Moratorium Committee writes, "This resolution speaks to our mission to correct the narrative of the history and treatment of Mexican/Chicano youth, and other cultures throughout the U.S., during a period of segregation, racism, violence, and hate throughout the country. Moreover, to commemorate, educate, and memorialize the events of the Mexican/Chicano civil rights movement, and, the painful and reactionary acts against our working families, serves to set the generational record straight."

Prepared by: Karen Chow / SFA / (916) 651-1520
6/21/23 14:29:06

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

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

THIRD READING

Bill No: ACR 86
Author: Kalra (D), et al.
Amended: 9/6/23 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 8/28/23
AYES: Roth, Nguyen, Alvarado-Gil, Archuleta, Ashby, Becker, Dodd, Eggman, Glazer, Niello, Smallwood-Cuevas, Wahab
NO VOTE RECORDED: Wilk

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 68-0, 7/3/23 - See last page for vote

SUBJECT: Animals: overpopulation: spay and neutering services

SOURCE: Social Compassion in Legislation

DIGEST: This resolution encourages various actions by the state and different state entities to address pet overpopulation, including increasing the veterinarian and the Registered Veterinarian Technician (RVT) workforce and support for spay and neuter services.

Senate Floor Amendments of 9/6/23 add coauthors and make minor technical changes.

ANALYSIS:

This resolution:

1) Makes statements which declare the following:

   a) There is a pet overpopulation crisis in California;

b) California's private and public shelters and the private rescue organizations that support them are overwhelmed with animals;

c) California's private and public shelters are chronically underfunded while tasked with tackling many of the state's animal needs, such as fighting animal abuse, addressing mental health issues, such as hoarding, providing safekeeping for pets when owners are arrested or placed in the hospital, supporting public safety, such as rabies control, assisting first responders during emergencies and natural disasters, reunifying pets with their people, and providing life-impacting veterinary interventions and care, animal behavioral support, and adoptions;

d) Due to breeding and lack of access to spaying and neutering services, the state's shelters are experiencing overcrowding, leading to higher rates of illness, euthanasia, and operational hardships;

e) Due to shelter overcrowding, shelters are turning away animals from intake, leading to higher rates of animals procreating and struggling to survive on the streets;

f) There has been an influx of rabbits, horses, pigs, and other agricultural animals into shelters whose higher level of care puts further strain on shelter resources;

g) The COVID-19 pandemic exacerbated the challenges that shelters face due to shelter closures or highly reduced hours, staffing shortages, and functional interruptions;

h) Californians adopted pets at record numbers during the COVID-19 pandemic and many Californians underestimated the time that was needed to care for pets and then returned to work, leading to higher rates of owner relinquishment;

i) Due to the brief spike in demand for pets during the pandemic, many Californians, seeing an economic opportunity, began breeding dogs for monetary gain, thereby contributing to the pet overpopulation crisis;

j) Californians are currently not adopting pets from shelters and rescues at the level needed;

k) Californians are buying unaltered “purebred” animals from both in-state and out-of-state breeders;

l) There is a shortage of pet-friendly housing in California, leading to increased owner relinquishment;

m) Due to the pandemic, veterinary clinics and shelters were not able to perform routine spay and neuter surgeries, perpetuating more unwanted litters;

n) There is insufficient community access to low-cost or free spay and neuter clinics, as well as a lack of resources needed to fully enforce state and local laws concerning licensing, breeding, spaying, and neutering;

o) There is a lack of affordable veterinary services available to Californians and their companion animals, which contributes to animal suffering and increased owner relinquishments;

p) There are only two veterinary schools in California, which fail to meet the state’s demand for licensed veterinarians, and there are not enough academic faculty at those institutions to teach veterinary students;

q) There are not enough licensed veterinarians and RVTs, particularly those trained to perform high-volume spay and neuter surgeries, to meet the service demands of California’s shelters, leading to shelter animals being adopted unaltered, thus adding to the pet overpopulation crisis;

r) There is a mental health crisis among veterinarians and shelter and rescue volunteers and staff due to occupational stress, leading to reported suicide rates four to five times higher than the general population;

s) Local jurisdictions spend over $400,000,000 per year in operating the state’s shelters to house, adopt out, and euthanize homeless animals;

t) The only annual state funding for shelters is the roughly $500,000 allocated through the Pet Lover’s Fund funded by the Pet Lover’s specialized license plates program, and a tax check-off program for low-cost spay and neuter;

u) Millions of private and philanthropic dollars are spent every year to assist California’s shelter animals; and;

v) The Legislature has failed to appropriate ongoing funds to carry out the mandates of SB 1785 (Chapter 752 of the Statutes of 1998).

2) Resolves the following by the Legislature:

a) The Veterinary Medical Board, with support from the Governor, other state boards and agencies, and interested stakeholders, should encourage out-of-state licensed veterinarians and RVTS to become licensed in California to perform or assist with the necessary spay and neuter surgeries and other medical services in order to address pet overpopulation;

b) State and local municipalities, in cooperation with public and private shelters, nonprofit rescue organizations, and private foundations, are encouraged to develop and fund high-volume spay and neuter clinics across the state to provide sterilization services;

c) The allocation of adequate funding for statewide spay and neuter programs and resources for broader enforcement of state and local licensing, breeding, and spay and neuter laws is urgently needed; and,

d) The State of California is encouraged to conduct a public relations campaign urging Californians to adopt shelter animals rather than buying an animal from a breeder, and to always spay and neuter them.

Background

Animal shelters in California are operated by local governments and private not for profit entities and are overseen by local jurisdictions. Currently, funding for public animal shelters and private shelters contracting with local governments receiving funding independently through each local jurisdiction. Private shelters and rescue organization who do not contract with local governments are funded through grants and other charitable donations. There is not currently an on-going general fund appropriation for animal shelters in California. The 2020-2021 and 2021-2022 state budgets included a total of $50 million investment for a statewide Animal Shelter Assistance Program (program) administered by UC Davis to provide the state's animal shelters with training and resources they need to work toward the state's no-kill goal. As part of that money, the program administers grant funding to address multiple facets of shelter work in addition to spay and neuter and access issues. The Budget Act also required the University of California to submit a report by March 31, 2023 on the use of funds, activities supported, a list of grantees, and

analysis of the program's impact and provide a second report to the Legislature no later than March 31, 2026.

According to the American Society for the Prevention of Cruelty to Animals, as of 2019, approximately 6.3 million companion animals enter U.S. shelters nationwide and each year approximately 920,000 animals are euthanized; and, between 2011 and 2019, the number of dogs and cats annually euthanized in shelters was down from 2.6 million in 2011. As reported in the *University of California's report to the Legislature on the Animal Shelter Assistance Program, UC Davis*, in 2021, a survey of animal shelters reported that the years 2017 to 2021, found that animal intakes and euthanasia was on a gradual decline until 2021, post-pandemic, the trend towards increased intake and euthanasia is accelerating. Currently, animal shelters are not mandated to report data about personnel or workforce, animal care or provide information specific to the animal population they interact with leaving a void in official statewide data. Because there is not a mandated central data-reporting agency for animal shelters, most data numbers are estimates. Additional data may be helpful in determining areas with the greatest need and where additional veterinary services or high volume and spay and neuter resources would be most beneficial for purposes of both shelters and private care.

California has established a variety of animal welfare laws regarding the care and well-being of animals. Within the past few years, the Legislature has passed, and the Governor has signed multiple pieces of legislation aimed at improving animal welfare and care of animals in shelter systems in California. However, it is notable that many of the new laws do not address those pets obtained from out-of-state breeders, in-state breeders, or through other private transactions.

SB 1785 (Hayden, Chapter 752, Statutes of 1998) often referred to as "Hayden Law" created this state's policy "that no adoptable animal should be euthanized if it can be adopted into a suitable home" and "that no treatable animal should be euthanized." The Hayden Law specified that shelters are to hold animals for a minimum of four to six days intended to give owners a chance to reclaim their pets or find animals a new home. Much of the Hayden law has not been effectively implemented due to fiscal challenges, which has resulted in the inability of shelters to fully comply with all aspects of the law. In 2001, the Commission on State Mandates determined that large portions of the Hayden Law needed to be suspended because the state was not reimbursing shelters for the additional cost of holding animals longer than current law allowed.

The VMB is the regulatory entity with oversight of both the licensing and enforcement of veterinarians, RVTs, veterinary controlled substance permits, and veterinary premises (those places where veterinary medicine is practiced). According to survey responses from the San Francisco SPCA's *Access to Veterinary Care in California Animal Shelters survey,* which assessed available veterinary care in animal shelters, it was reported that approximately 1/5 of all veterinary and RVT positions are unfilled in many of the shelters across California and the primary reason was that these shelter organizations are unable to recruit a qualified candidate. It was noted that the lack of veterinarians and RVTs available to provide care to animals in shelters increases the length of stay and prohibits the necessary spay and neuter services from being made available. While advocates and policymakers have highlighted affordable spay and neuter programs as a key component to addressing animal overpopulation, this resolution asserts that there is an insufficient number of licensed veterinarians and RVTs in the state.

There is not a statewide requirement that all dogs or cats be spayed or neutered. However, some local jurisdictions may require it and shelters are required to provide spay and neuter services prior to adoption. There is also no statewide requirement that pets be implanted with a microchip-unless however the animal is from a shelter or rescue group. According to the *University of California's Report to the Legislature on the Animal Shelter Assistance Program, UC Davis,* "Spay/neuter services, the long-time bedrock of humane population management in the United States, have declined significantly since the beginning of the COVID-19 pandemic. It has been estimated that COVID-related shutdowns and reduced clinical capacity resulted in a deficit of nearly 3 million spay/neuter surgeries in the first two years of the pandemic."

California currently offers 15 specialized license plates of where a portion of each plate sale goes into a fund for designated charitable purposes. One of those plates is the "Pet Lovers License Plate". The purpose of the program is to help stop pet overpopulation in California by providing funds for spay/neuter services to municipalities and non-profit organizations in California. The revenue received from the sale and renewal of the license plate is awarded annually through grant agreements to eligible organizations.

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

SUPPORT: (Verified 9/6/23)

Social Compassion in Legislation (source)
4 Dogs Farm Rescue

Animal Welfare Data Center
Association of German Shepherd Rescuers, Inc.
Cal Coast Pet Rescue
Caring Friends Cat Rescue
CAUSE for SB Paws
Coastside Feral Care
Compassionate Bay
Dogwood Animal Rescue
Feline the Love
Four Paws to Love
Fresno Furry Friends, Inc.
Friends of Plumas County Animals
Front Harness by the Front Dog
Gingeroo Animal Rescue Network
Greater Los Angeles Animal Spay Neuter Collaborative
Holstein Haven Calf Rescue
Latino Alliance for Animal Care Foundation
Los Angeles Democrats for the Protection of Animals
Lufa World
Mendocino Coast Humane Society
Michelson Center for Public Policy
Milo Foundation
Motherlode Feral Cat Alliance
Muttville Senior Dog Rescue
One Love CBD
Our Honor
Outta the Cage
Partners in Animal Care & Compassion
Pink Paws for he CAUSE
Project Minnie
Project Purr
Rabbits in Need Inc.
Seeds 4 Change Now Animal Rescue
Singer Sanctuary
Soul 2 Soul Animal Rescue
Starfish Animal Rescue
Take Me Home
The Animal Rescue Mission
The Frank and Lucy Project
The Pepper Foundation

The Puppy Coalition
Tippedears
Unchainedtv
United Spay Alliance
Urban Panthers Rescue
Vegan Flag
Ventura County Animal Services
Women United for Animal Welfare
532 Individuals

OPPOSITION: (Verified 9/6/23)

None received

ARGUMENTS IN SUPPORT: Supporters note, "ACR 86 highlights various factors contributing to the current pet overpopulation problem in our state while calling on the various state and local entities to encourage out-of-state veterinarians to apply for California licensing, to fund both high-volume and long term spay and neuter programs, to fund efforts to more broadly enforce spay and neuter and breeding laws, and to conduct a public relations campaign urging Californians to adopt shelter animals rather than buying animals from breeders."

ASSEMBLY FLOOR: 68-0, 7/3/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Mike Fong, Vince Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Ward, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Bains, Calderon, Flora, Gallagher, Lackey, Lowenthal, Jim Patterson, Joe Patterson, Rendon, Sanchez, Wallis, Weber

Prepared by: Elissa Silva / B., P. & E.D. /
9/7/23 11:10:15

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