2023-24 SESSION

SENATE
THIRD READING PACKET

TUESDAY, JANUARY 16, 2024

OFFICE OF SENATE FLOOR ANALYSES
651-1520

SENATE THIRD READING PACKET

Attached are analyses of bills on the Daily File for Tuesday, January 16, 2024.

Note	Measure	Author	Location
	SB 17	Caballero	Governor's Vetoes
	SB 18	McGuire	Governor's Vetoes
	SB 52	Durazo	Governor's Vetoes
	SB 58	Wiener	Governor's Vetoes
	SB 81	Skinner	Governor's Vetoes
	SB 90	Wiener	Governor's Vetoes
	SB 251	Newman	Consent Calendar Second Legislative Day
	SB 257	Portantino	Governor's Vetoes
	SB 271	Dodd	Governor's Vetoes
	SB 275	Grove	Governor's Vetoes
	SB 303	Allen	Governor's Vetoes
	SB 354	Ochoa Bogh	Governor's Vetoes
	SB 373	Menjivar	Governor's Vetoes
+	SB 382	Becker	Consent Calendar First Legislative Day
	SB 390	Limón	Governor's Vetoes
	SB 391	Blakespear	Governor's Vetoes
	SB 394	Gonzalez	Governor's Vetoes
+	SB 402	Wahab	Senate Bills - Third Reading File
	SB 403	Wahab	Governor's Vetoes
	SB 420	Becker	Governor's Vetoes
	SB 429	Bradford	Governor's Vetoes
	SB 433	Cortese	Governor's Vetoes
	SB 435	Gonzalez	Governor's Vetoes
	SB 470	Alvarado-Gil	Governor's Vetoes
	SB 486	Hurtado	Governor's Vetoes
	SB 493	Min	Governor's Vetoes
	SB 509	Portantino	Governor's Vetoes
	SB 536	Rubio	Senate Bills - Third Reading File
	SB 541	Menjivar	Governor's Vetoes
	SB 557	Limón	Governor's Vetoes
	SB 565	Caballero	Governor's Vetoes
	SB 582	Becker	Governor's Vetoes
	SB 596	Portantino	Governor's Vetoes
	SB 619	Padilla	Governor's Vetoes
	SB 627	Smallwood-Cuevas	Governor's Vetoes
	SB 635	Menjivar	Governor's Vetoes
	SB 640	Portantino	Governor's Vetoes
	SB 641	Roth	Governor's Vetoes
	SB 657	Caballero	Governor's Vetoes
	SB 664	Stern	Governor's Vetoes
	SB 665	Allen	Governor's Vetoes
	SB 686	Durazo	Governor's Vetoes
	SB 694	Eggman	Governor's Vetoes
	SB 702	Limón	Governor's Vetoes
	SB 716	Alvarado-Gil	Governor's Vetoes
	SB 725	Smallwood-Cuevas	Governor's Vetoes

\+ ADDS
RA Revised Analysis
* Analysis pending

Note	Measure	Author	Location
	SB 728	Limón	Governor's Vetoes
	SB 731	Ashby	Governor's Vetoes
	SB 751	Padilla	Governor's Vetoes
	SB 773	Glazer	Governor's Vetoes
	SB 777	Allen	Governor's Vetoes
RA	SB 799	Portantino	Governor's Vetoes
	SB 804	Dahle	Senate Bills - Third Reading File
	SB 822	Durazo	Governor's Vetoes
	SB 842	Bradford	Governor's Vetoes
	SB 847	Dahle	Governor's Vetoes
	SB 863	Allen	Senate Bills - Third Reading File
	SCA 1	Newman	Senate Bills - Third Reading File
	SCA 2	Stern	Senate Bills - Third Reading File
	SCR 93	Hurtado	Senate Bills - Third Reading File
	SCR 94	Dodd	Senate Bills - Third Reading File
	SR 51	Min	Senate Bills - Third Reading File

+ ADDS
RA Revised Analysis
* Analysis pending

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VETO

Bill No: SB 17
Author: Caballero (D), et al.
Amended: 4/18/23
Vote: 27

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, 5/24/23
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, 9/13/23 - See last page for vote

SUBJECT: Senior housing: tax credits

SOURCE: LeadingAge California

DIGEST: This bill requires the California Tax Credit Allocation Committee (TCAC) to amend their regulations to increase the housing type goal for senior housing developments to 20% for the use of low income housing tax credits (LIHTC).

ANALYSIS:

Existing law:

1) Allows a state tax credit for costs related to construction, rehabilitation, or acquisition of low-income housing. This credit, which mirrors a federal LIHTC, may be used by taxpayers to offset the tax under the Personal Income Tax, the Corporation Tax, and the Insurance Tax laws.

2) Requires the TCAC to annually allocate the California LIHTC based upon qualifications of the applicant and proposed project. The California LIHTC is available only to projects that receive an allocation of the federal LIHTC.

3) Limits the annual aggregate amount of the state LIHTC to $70 million, as adjusted for an increase in the California consumer price index, plus any unused LIHTC from the preceding calendar year and any LIHTC returned in the calendar year. The state LIHTC awarded may be claimed as a credit over a four-year period.

This bill requires the TCAC to amend their regulations to increase the housing type goal for senior housing developments to 20% for the use of LIHTC.

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, the state Department of Housing and Community Development (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). For decades, not enough housing was constructed to meet need, resulting in a severe undersupply of housing.

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. A lack of affordable housing is the biggest contributor to homelessness. 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. Variation in rates of homelessness cannot be explained by variation in rates of individual factors such as poverty or mental illness, however, cities with higher rents and lower rental vacancy rates (i.e., tighter housing markets) are directly linked to higher per capita rates of homelessness.

According to the Public Policy Institute of California (PPIC), 15% of the state's population is 65 or older, and, by 2030, about one in five Californians will be 65. Currently, nearly half (45%) of Californians experiencing homelessness are 50 years or older, and older adult homelessness is projected to increase. A recent study from UCSF's Center for Vulnerable Populations showed that nearly half of unhoused older people experienced their first episode of homelessness after age fifty. Homelessness contributes to lower life expectancy, especially among seniors. Older adults experiencing homelessness are likely to have physical health conditions and functional health status similar to, or worse than, someone 10 to 20 years older.

Comments

1) *Author's statement.* "The California Tax Credit Allocation Committee provides funds for the development of low-income housing, and has the goal to spend 15% of the State's allocation of the Low-Income Housing Tax Credit (LIHTC) for programs to increase affordable housing production specifically for older adults. However, this goal does not guarantee a set aside of LIHTC for senior housing production, and in reality, this number often serves as a ceiling resulting in fewer credits allocated for senior housing than what matches the need. In 2030, 25% of the state's population will be 60 or older, which represents an overall increase of 166%. The population over the age of 85 will have an even faster growth rate, increasing by 489% from 2010 to 2060. SB 17 will ensure the LIHTC Program allocates a share of tax credits for senior housing projects that truly reflects the current need. SB 17 will require LIHTC Program to ensure the percent of the tax credits awarded for lower-income senior housing projects is no less than California's share of low-income senior renters. It is imperative for the state to keep pace with the demand of housing needed for older adults in California."

2) *LIHTC.* The LIHTC is an indirect federal subsidy developed in 1986 to incentivize the private development of affordable rental housing for low-income households. The federal LIHTC program enables low-income housing sponsors

and developers to raise project equity through the allocation of tax benefits to investors. TCAC within the State Treasurer's Office, administers the program and awards credits to qualified developers who can then sell those credits to private investors who use the credits to reduce their federal tax liability. The developer in turn invests the capital into the affordable housing project.

Each year, the federal government allocates funding to the states for LIHTCs on the basis of a per-resident formula. In California, TCAC is the entity that reviews proposals submitted by developers and selects projects based on a variety of prescribed criteria. Only rental housing buildings, which are either undergoing rehabilitation or newly constructed, are eligible for the LIHTC programs. In addition, the qualified low-income housing projects must comply with both rent and income restrictions. The value of the 4% tax credits is less than half of the 9% tax credits and, as a result, 4% federal credits are generally used in conjunction with another funding source, like state housing bonds or local funding sources.

In 1987, the Legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that have also received, or are concurrently receiving, an allocation of the federal LIHTCs. The amount of state LIHTC that may be annually allocated by TCAC is statutorily limited to $70 million, adjusted for inflation (currently, around $100 million). Generally, affordable housing developments in California cannot "pencil-out" without a low income housing tax credit, and, given the relatively limited resources available for affordable housing development, the demand for tax credits outpaces demand by 2:1.

3) *Striking a balance*. California's population is aging and the proportion of those who are older and lower-income are growing. Policymakers must ensure this vulnerable population remains housed as California faces a dramatic housing shortage for all populations, including the homeless, persons with disabilities, unaccompanied youth, veterans, and domestic violence survivors, just to name a few. Unfortunately, however, there simply are not enough resources available to finance the construction of housing necessary to meet the needs of all vulnerable populations in the state.

   The CTCAC regularly adopts regulations governing the process for applying for LIHTC. In the current regulations are several housing type goals, including among others, a 15% goal for seniors. In an effort to ensure tax credits are

serving older populations without edging out other vulnerable populations, this bill requires the senior housing goal to be increased to 20%.

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

According to the Assembly Appropriations Committee:

- Potential ongoing General Fund cost pressures of an unknown amount to authorize additional LIHTCs to the extent this bill results in a significant increase in LIHTC allocations for senior housing projects that would otherwise be used for other eligible affordable housing projects. The demand for LIHTCs has consistently exceeded the availability of LIHTCs for many years.

- TCAC indicates negligible costs to amend its LIHTC regulations to increase the housing-type goal for senior developments.

SUPPORT: (Verified 10/10/23)

LeadingAge California (source)
Alzheimer's Orange County
California Apartment Association
California Commission on Aging
California Foundation for Independent Living Centers
Centro LA Familia Advocacy Services
City of Atwater
City of Kerman
City of Madera
City of Mendota
County of Madera
Eskaton
First 5 San Benito
Health Projects Center
Lesley Senior Communities
Menorah Park
Pep Housing
Placer Independent Resource Services
Retirement Housing Foundation
San Juan Bautista Rotary
Senior Coalition of Stanislaus County
Seniors Council/Area Agency on Aging of Santa Cruz and San Benito Counties
Telacu Residential Management Inc.

OPPOSITION: (Verified 10/10/23)

None received

GOVERNOR'S VETO MESSAGE:

> This bill would require the California Tax Credit Allocation Committee (TCAC) within the State Treasurer's Office to revise the regulations for the low-income housing tax credit (LIHTC) to increase the housing-type goal for senior developments from 15% to 20%. While I appreciate the author's commitment to increase the supply of affordable housing for seniors, statutorily mandating this change may adversely impact access to affordable housing for other population groups. TCAC already has the authority to revise its regulations, which can be done in conjunction with a robust stakeholder process to inform any adjustments. This bill would bypass that process.

ASSEMBLY FLOOR: 80-0, 9/13/23
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

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10/19/23 10:39:10

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

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VETO

Bill No: SB 18
Author: McGuire (D), et al.
Amended: 7/13/23
Vote: 27

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

SENATE FLOOR: 40-0, 9/14/23
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, 9/13/23 - See last page for vote

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.

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 was vetoed by the Governor.

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 10/12/23)

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
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
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 10/12/23)

None received

GOVERNOR'S VETO MESSAGE:

SB 18 would create the Tribal Housing Grant Program Trust Fund to provide grant funds to tribal entities, and AB 371 would change the current waiver process utilized to assist tribal entities in applying for various housing financing programs administered by the Department.

I want to thank the authors and their supporters for their commitment to providing more safe and affordable housing for California's tribal residents. These legislative efforts are well-intentioned, and I share the desire to further remove barriers and increase tribal access to housing and homelessness programs.

I signed legislation in 2019 to make tribes eligible for most State housing programs, and I remain committed to doing more. My Administration has provided tribal set asides in a variety of new programs we created, including: $30 million in the Behavioral Health Infrastructure Bond Act of 2023; $29 million through the first round of the Multifamily Super Notice of Funding Availability, which combines funding for four affordable housing funding programs; $20 million recently awarded through the Homeless, Housing Assistance and Prevention program (HHAP); and a forthcoming Homekey Tribal Entity Notice of Funding Availability of approximately $75 million, to name a few.

But system overhauls such as those included in these two bills need to be made through the budget process where a dedicated grant program to

address tribal housing needs - using either new general fund and/or reappropriation of existing tribal set-asides - can be established, along with appropriate program rules to streamline application processes, with more flexible uses to better meet the unique housing needs of tribal governments.

I am committed to addressing these important issues in next year's budget and look forward to working with the Legislature and our tribal partners to help deliver these critical dollars to tribal communities where - and how - they are needed.

ASSEMBLY FLOOR: 80-0, 9/13/23
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: Mehgie Tabar / HOUSING / (916) 651-4124
10/19/23 10:40:46

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

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VETO

Bill No: SB 52
Author: Durazo (D), et al.
Amended: 9/7/23
Vote: 27

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

SENATE FLOOR: 32-8, 9/14/23
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: 58-15, 9/13/23 - See last page for vote

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.

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 becomes 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, Chapter 343, Statutes of 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) would have required 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. In his veto message, Governor Newsom stated, in part, the following:

> *While I share the author's goal of ensuring community control over the redistricting process, this bill creates a state-reimbursable mandate in the tens of millions and should therefore be considered in the annual budget process.*
>
> *In partnership with the Legislature, we enacted a budget that closed a shortfall of more than $30 billion through balanced solutions that avoided deep program cuts and protected education, health care, climate, public safety, and social service programs that are relied on by millions of Californians. This year, however, the Legislature sent me bills outside of this budget process that, if all enacted, would add nearly $19 billion of unaccounted costs in the budget, of which $11 billion would be ongoing.*

> *With our state facing continuing economic risk and revenue uncertainty, it is important to remain disciplined when considering bills with significant fiscal implications, such as this measure.*

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, the following:

> *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 10/13/23)

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 of Los Angeles

OPPOSITION: (Verified 10/13/23)

City of Los Angeles

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

> 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.

GOVERNOR'S VETO MESSAGE:

This bill requires a charter city with a population of at least 2.5 million people to establish an independent redistricting commission, if one is not already required by the city's charter.

While I agree with the goal of the author's proposal, this bill is contingent on the enactment of Assembly Bill 1248, which I have vetoed.

ASSEMBLY FLOOR: 58-15, 9/13/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Megan Dahle, Davies, Dixon, Essayli, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Alanis, Bauer-Kahan, Chen, Flora, Jones-Sawyer, Luz Rivas, Villapudua

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
10/25/23 10:52:38

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

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

VETO

Bill No: SB 58
Author: Wiener (D), et al.
Amended: 9/1/23
Vote: 27

SENATE PUBLIC SAFETY COMMITTEE: 3-1, 3/21/23
AYES: Bradford, Skinner, Wiener
NOES: Wahab
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 21-16, 5/24/23
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Laird, McGuire, Menjivar, Newman, Padilla, Roth, Skinner, Smallwood-Cuevas, Stern, Wiener
NOES: Alvarado-Gil, Ashby, Dahle, Glazer, Grove, Hurtado, Jones, Nguyen, Niello, Ochoa Bogh, Portantino, Rubio, Seyarto, Umberg, Wahab, Wilk
NO VOTE RECORDED: Blakespear, Limón, Min

SENATE FLOOR: 21-14, 9/7/23
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Gonzalez, Laird, McGuire, Menjivar, Newman, Padilla, Roth, Skinner, Smallwood-Cuevas, Stern, Wiener
NOES: Alvarado-Gil, Blakespear, Dahle, Glazer, Grove, Hurtado, Jones, Min, Nguyen, Niello, Portantino, Seyarto, Umberg, Wahab
NO VOTE RECORDED: Ashby, Limón, Ochoa Bogh, Rubio, Wilk

ASSEMBLY FLOOR: 43-15, 9/6/23 - See last page for vote

SUBJECT: Controlled substances: decriminalization of certain hallucinogenic substances

SOURCE: Heroic Hearts Project

DIGEST: This bill makes lawful the possession, preparation, obtaining, or transportation of specified quantities of psilocybin, psilocyn, dimethyltryptamine (DMT), and mescaline, for personal use, as defined, by persons 21 years of age or older.

ANALYSIS:

Existing law:

1) Classifies controlled substances into five schedules according to their danger and potential for abuse. Schedule I controlled substances have the greatest restrictions and penalties, including prohibiting the prescribing of a Schedule I controlled substance. (Health & Saf. Code, §§ 11054-11058.)

2) Classifies several hallucinogenic substances including DMT, ibogaine, mescaline, psilocybin, and psilocyn as Schedule I substances. (Health & Saf. Code, § 11054, subd. (d).)

3) Prohibits the possession of several specified controlled substances. (Health & Saf. Code, § 11350, subd. (a).)

4) Makes it unlawful for a person to transport, import, sell, furnish, administer, or give away, or offer or attempt to transport, import, sell, furnish, administer, or give away specified controlled substances. (Health & Saf. Code, § 11352.)

5) Makes it is unlawful to possess any device, instrument, or paraphernalia used for unlawfully injecting or smoking specified controlled substances, except as specified. (Health & Saf. Code, § 11364, subd. (a).)

6) Makes it unlawful for any person to deliver, furnish, or transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. (Health & Saf. § 11364.7.)

7) Provides that it is unlawful to visit or to be in any room or place where specified controlled substances are being unlawfully smoked or used with knowledge that such activity is occurring. (Health & Saf. Code, § 11365, subd. (a).)

8) Provides that the possession of methamphetamine and other specified controlled substances is unlawful. (Health & Saf. Code, § 11377, subd. (a).)

9) Makes it unlawful for a person to transport, import into this state, sell, furnish, administer, or give away, or offer to transport, import into this state, sell, furnish, administer, or give away, or attempt to import into this state or transport specified controlled substances. (Health & Saf. Code, § 11379.)

10) Makes it unlawful for a person to agree, consent, or in any manner offer to unlawfully sell, furnish, transport, administer, or give specified controlled substances. (Health & Saf. Code, § 11382.)

11) Provides that it is unlawful to be under the influence of specified controlled substances. (Health & Saf. Code, § 11550, subd. (a).)

12) Includes several legislative findings and declarations related to drug and alcohol education. Provides that any material, curricula, teachings, or promotion of responsible use of alcohol or drugs, if the use is unlawful, is inconsistent with the law. Provides that the "no unlawful use" message applies to all drug and alcohol programs, and that these materials are to teach and promote that any unlawful use of drugs and alcohol is illegal and dangerous. (Health & Saf. Code, § 11999.)

This bill:

1) Removes or excludes mescaline, DMT, psilocybin, and psilocin from several of the above listed offenses.

2) Defines mescaline as derived from plants presently classified botanically in the Echinopsis or Trichocereus genus of cacti, including, without limitation, the Bolivian Torch Cactus, San Pedro Cactus, or Peruvian Torch Cactus, but not including mescaline derived from any plant defined as peyote.

3) Provides that all of the following is lawful for a natural person 21 years of age or older and is not a violation of state or local law:

    a) The possession, preparation, obtaining, or transportation of mescaline for personal use.

    b) The ingesting of mescaline.

    c) The possession, planting, cultivating, harvesting, or processing of plants capable of producing mescaline, except as specified, on property owned or

controlled by a person, for personal use by that person, and possession of any product produced by those plants.

4) Provides that possession of mescaline by a person 21 years of age or older on the grounds of any public or private elementary, vocational, junior high, or high school, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility is a misdemeanor.

5) Provides that the punishment for a person who knowingly gives away or administers mescaline to a person who is under 18 years of age in violation of law is imprisonment in a county jail for a period of not more than six months or by a fine of not more than $500, or both, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

6) Provides that the punishment for a person 18 years of age or over who knowingly gives away or administers mescaline to a minor under 14 years of age in violation of law is imprisonment in the state prison for a period of three, five, or seven years.

7) Provides that a person who knowingly gives away or administers mescaline to a person who is at least 18 years of age, but under 21 years of age is guilty of an infraction.

8) Provides that possession of mescaline by a person under 18 years of age is punishable as an infraction. Requires the minor to either: (a) complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days, commencing when the drug education or counseling services are made available to them for a first offense; or (b) complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days, commencing when the drug education or counseling services are made available to them for a second or subsequent offense.

9) Provides that possession of mescaline by a person at least 18 years of age but less than 21 years of age is punishable as an infraction.

10) Provides that mescaline or related products involved in any way with conduct deemed lawful are not contraband nor subject to seizure. Prohibits lawful conduct from constituting the basis for detention, search, or arrest, or the basis for the seizure or forfeiture of assets.

11) Defines the following terms:

a) "Allowable amount" means four grams per person. Specifies "allowable amount" does not include the weight of any material of which the substance is a part or to which the substance is added, dissolved, held in solution, or suspended, or any ingredient or material combined with the substance as part of a preparation.

b) "Financial gain" means the receipt of money or other valuable consideration in exchange for the item being transferred.

c) "Personal use" means for the personal ingestion or other personal and noncommercial use by the person in possession.

d) "Preparation" means processing or otherwise preparing for use.

12) Provides that "mescaline" does not include synthetic analogs of mescaline, including derivatives of mescaline that are produced using chemical synthesis, chemical modification, or chemical conversion.

13) Provides that all of the following is lawful for a natural person 21 years of age or older and is not a violation of state or local law:

a) The possession, preparation, obtaining, or transportation of DMT, psilocybin, and psilocyn for personal use.

b) The ingesting of DMT, psilocybin, and psilocyn.

c) The possession, planting, cultivating, harvesting, or processing of plants capable of producing DMT, psilocybin, or psilocyn, on property owned or controlled by a person, for personal use by that person, and possession of any product produced by those plants including spores or mycelium capable of producing mushrooms or other material that contain psilocybin or psilocyn for that purpose.

14) Includes all of the same criminal penalties with respect to DMT, psilocybin, and psilocyn as apply to mescaline under the provisions of this bill. Specifically:

a) Possession of one of these substances on the grounds of any public or private elementary, vocational, junior high, or high school, during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility is a misdemeanor.

b) Knowingly giving away or administering one of these substances to a person under 18 is a wobbler.

c) Knowingly giving away or administering one of these substances to a person under 14 is a felony with a punishment of three, five, or seven years in state prison.

d) Knowingly giving away or administering one of these substances to a person at least 18 years old but under 21 is an infraction.

e) Possession of one of these substances by a person under 18 years of age is an infraction.

f) Possession of one of these substances by a person at least 18 years of age but under 21 is an infraction.

15) Provides that the above controlled substances or related products involved in any way with conduct deemed lawful are not contraband nor subject to seizure. Prohibits lawful conduct from constituting the basis for detention, search, or arrest, or the basis for the seizure or forfeiture of assets.

16) Includes the following definitions:

a) "Allowable amount" means the following quantities of a substance per person. Specifies that "allowable amount" does not include the weight of any material of which the substance is a part or to which the substance is added, dissolved, held in solution, or suspended, or any ingredient or material combined with the substance specified in this subdivision as part of a preparation:

i) One gram of dimethyltryptamine, otherwise known as DMT.

ii) One gram of psilocybin or one ounce of a plant or fungi containing psilocybin.

iii) One gram of psilocyn or one ounce of a plant or fungi containing psilocyn.

b) "Financial gain" means the receipt of money or other valuable consideration in exchange for the item being transferred.

c) "Personal use" means for the personal ingestion or other personal and noncommercial use by the person in possession.

d) "Preparation" means processing or otherwise preparing for use.

17) Repeals the provision of law that includes legislative findings and declarations related to drug and alcohol education.

18) Repeals the provision of law that makes it unlawful to transport, import into this state, sell, furnish, gives away, or offer to transport, import into this state, sell, furnish, or give away any spores or mycelium capable of producing mushrooms or other material which contain psilocybin or psilocyn.

19) Contains uncodified legislative findings and declarations. Contains a severability provision. Contains technical and conforming changes.

Background

Hallucinogens are a diverse group of drugs that alter a person's perception or awareness of their surroundings. Some hallucinogens are found in plants and fungi, and some are synthetically produced. Hallucinogens can be consumed in a variety of ways, including swallowed as tablets, pills, or liquid, consumed raw or dried, snorted, injected, inhaled, vaporized, smoked, or absorbed through the lining of the mouth using drug-soaked pieces of paper. Common hallucinogens include LSD, DMT, psilocybin, peyote, and mescaline.

Many hallucinogenic substances, including DMT, mescaline, ibogaine, psilocybin, and psilocyn are classified as Schedule I substances under the state's Uniform Controlled Substances Act. Schedule I substances are defined as those controlled substances having no medical utility and that have a high potential for abuse. There is research, however, that indicates that many of these substances have therapeutic benefits. (See Davis et. al, *Effects of Psilocybin-Assisted Therapy on Major Depressive Disorder*, JAMA Psychiatry (2020) available at <https://jamanetwork.com/journals/jamapsychiatry/fullarticle/2772630 ; D'Souza et al., *Exploratory Study of the Dose-Related Safety, Tolerability, and Efficacy of Dimethyltryptamine (DMT) in Healthy Volunteers and Major Depressive Disorder*, Neuropsychopharmacol (2022) available at <https://www.nature.com/articles/s41386-022-01344-y ; Köck et al., *A Systematic Literature Review of Clinical Trials and Therapeutic Applications of Ibogaine*, Journal of Substance Abuse Treatment (2022), available at <https://www.sciencedirect.com/science/article/pii/S0740547221004438 .)

In recent years, the U.S. Federal Drug Administration (FDA) has designated psilocybin as a "breakthrough therapy" to treat severe depression. (<https://www.livescience.com/psilocybin-depression-breakthrough-therapy.html

[as of Mar. 15, 2023].) The "breakthrough therapy" designation is "a process designed to expedite the development and review of drugs that are intended to treat a serious condition and preliminary clinical evidence indicates that the drug may demonstrate substantial improvement over available therapy on a clinically significant endpoint." (<https://www.fda.gov/patients/fast-track-breakthrough-therapy-accelerated-approval-priority-review/breakthrough-therapy [as of Mar. 15, 2023].)

Efforts to deprioritize the policing or prosecution of conduct related to certain hallucinogens and to acknowledge the therapeutic value of hallucinogens have gained support in recent years. Since 2019, local measures to deprioritize the policing or prosecution of conduct related to hallucinogens have passed in Oakland, Santa Cruz, Ann Arbor, Denver, and Washington D.C, among others.

In 2020, Oregon voters approved Measure 109, the Psilocybin Services Act, which directed the Oregon Health Authority to create a state-licensed, psilocybin-assisted therapy program over a two-year period. (Kristian Foden-Vencil, *Oregon Voters Legalize Therapeutic Psilocybin* (Nov. 4, 2020) available at <https://www.opb.org/article/2020/11/04/oregon-measure-109-psilocybin/ .) In implementing Measure 109, Oregon had to determine how to license and regulate the manufacturing, transportation, delivery, sale and purchase of psilocybin products as well as the provision of psilocybin services. (https://www.oregon.gov/oha/ph/preventionwellness/pages/oregon-psilocybin-services.aspx) During the same election, Oregon voters approved Measure 110 which reduced the personal noncommercial possession of small amounts of a Schedule I-IV controlled substance, including several hallucinogens, from a criminal offense to a civil violation resulting in a maximum fine of $100. (Legislative Policy and Research Office, *Measure 110 (2020): Background Brief* (December 2020) available at <https://www.oregonlegislature.gov/lpro/Publications/Background-Brief-Measure-110-(2020).pdf .)

More recently, Colorado voters approved Proposition 122 which, among things, decriminalized the personal possession and use of psilocybin, psilocyn, DMT, ibogaine and mescaline for adults aged 21 and older. (Andrew Kenney, *Coloradans Voted to Legalize Psilocybin. What's Next?* (Nov. 25, 2022) available at <https://www.cpr.org/2022/11/25/colorado-psilocybin-legalization-whats-next/ .) The measure additionally establishes a program for licensed "healing centers" to administer psilocybin and psilocyn to adults by licensed professionals, and creates a regulatory framework for the manufacture, cultivation, testing, storage, transport, transfer, delivery, sale, and purchase of the covered substances between healing

centers and other permitted entities. (*Id*.; <https://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2021-2022/58Final.pdf .)

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

According to the Assembly Appropriations Committee:

- One-time costs (General Fund) to the California Department of Public Health (CDPH) to convene the workgroup and make therapeutic use framework recommendations to the Legislature. The California Health and Human Services Agency reports it will likely delegate these duties to CDPH. CDPH estimates costs of approximately $362,000 in fiscal year 2024-25 for staffing and contractors to plan and facilitate workgroup meetings and create the required report.

- Potential savings (General Fund) to the California Department of Corrections and Rehabilitation (CDCR), of an unknown but potentially significant amount, in reduced incarceration costs. Under existing law, personal possession of and furnishing or otherwise giving away mescaline, DMT, ibogaine, psilocybin, or psilocin is punishable by incarceration in county jail or, if the defendant has certain prior convictions, by incarceration in prison. CDCR estimates that it costs about $128,000 to incarcerate one person for one year. To the extent this bill eliminates future convictions and related prison terms for individual use, possession, and sharing of these substances, it will reduce CDCR's incarceration costs.

SUPPORT: (Verified 10/17/23)

Heroic Hearts Project (source)
A New Path
Alameda County Democratic Party
Bend the Arc: Jewish Action
Blue Dream Democrats
California Association of Social Rehabilitation Agencies
California Attorneys for Criminal Justice
California Institute of Integral Studies
California Public Defenders Association
City of Eureka
City of West Hollywood
Decriminalize Nature, San Francisco

Disability Rights California
Doctors for Cannabis Regulation
Dr. Bronner's
Grunt Style Foundation
Hippie and a Veteran Foundation
Home-LA
Human Impact Partners
Initiate Justice
INNATE Integrative Medicine, Santa Cruz
Law Enforcement Action Partnership
Mindlumen
National Association of Social Workers, California Chapter
New Approach Advocacy Fund
Oakland City Council Member Rebecca Kaplan
Personal Plants
Psychedelic Bar Association, Legalization and Regulation Committee
San Francisco Public Defender
Secure Justice
Smart Justice California
The Action Lab at Northeastern University
Unlimited Sciences
Veterans of War
Several individuals

OPPOSITION: (Verified 10/17/23)

Arcadia Police Officers' Association
Blue Rising
Burbank Police Officers' Association
California Association of Highway Patrolmen
California Coalition of School Safety Professionals
California Contract Cities Association
California District Attorneys Association
California Family Council
California State Sheriffs' Association
California Statewide Law Enforcement Association
Citizens Commission on Human Rights
City of Beverly Hills
City of Huntington Beach
City of Visalia
Claremont Police Officers Association

Concerned Women for America
Corona Police Officers Association
Culver City Police Officers' Association
Deputy Sheriffs' Association of Monterey County
Fullerton Police Officers' Association
Larkspur Mayor Gabe Paulson
Los Angeles Professional Peace Officers Association
Los Angeles School Police Officers Association
Marin Healthy Youth Partnerships
Marin Residents for Public Health Cannabis Policy
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers Association
Riverside Sheriffs' Association
SafeLaunch
San Anselmo Councilmember Brian Colbert
San Anselmo Mayor Steve Burdo
San Diegans Against Crime
San Diego Deputy District Attorneys Association
San Rafael Vice Mayor Rachel Kertz
Santa Ana Police Officers Association
Sarlo Foundation
Sausalito City Councilmember Jill Hoffman
Tamalpais Union High School District Trustee Emily Uhlhorn
Upland Police Officers Association
Wellify Teen
William G. Nash Foundation
Several individuals

GOVERNOR'S VETO MESSAGE:

> This bill would, beginning on January 1, 2025, decriminalize the possession, preparation, obtaining, or transportation of specified quantities of mescaline, dimethyltryptamine (DMT), psilocybin, and psilocyn, for personal use by persons 21 years of age or older. This bill would also decriminalize the therapeutic use of the substances following the Legislature's adoption of a framework governing therapeutic use.

Both peer-reviewed science and powerful personal anecdotes lead me to support new opportunities to address mental health through psychedelic medicines like those addressed in this bill. Psychedelics have proven to relieve people suffering from certain conditions such as depression, PTSD, traumatic brain injury, and other addictive personality traits. This is an exciting frontier and California will be on the front-end of leading it.

California should immediately begin work to set up regulated treatment guidelines - replete with dosing information, therapeutic guidelines, rules to prevent against exploitation during guided treatments, and medical clearance of no underlying psychoses. Unfortunately, this bill would decriminalize possession prior to these guidelines going into place, and I cannot sign it.

I urge the legislature to send me legislation next year that includes therapeutic guidelines. I am, additionally, committed to working with the legislature and sponsors of this bill to craft legislation that would authorize permissible uses and consider a framework for potential broader decriminalization in the future, once the impacts, dosing, best practice, and safety guardrails are thoroughly contemplated and put in place.

ASSEMBLY FLOOR: 43-15, 9/6/23
AYES: Aguiar-Curry, Alvarez, Arambula, Bennett, Berman, Boerner, Bonta, Bryan, Wendy Carrillo, Connolly, Essayli, Flora, Mike Fong, Friedman, Garcia, Gipson, Haney, Hart, Holden, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, McCarty, McKinnor, Stephanie Nguyen, Ortega, Pacheco, Pellerin, Rendon, Blanca Rubio, Santiago, Ting, Villapudua, Waldron, Ward, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Bains, Bauer-Kahan, Cervantes, Megan Dahle, Davies, Dixon, Vince Fong, Gallagher, Irwin, Lackey, Muratsuchi, Joe Patterson, Sanchez, Ta
NO VOTE RECORDED: Addis, Calderon, Juan Carrillo, Chen, Gabriel, Grayson, Hoover, Maienschein, Mathis, Papan, Jim Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Rodriguez, Schiavo, Soria, Valencia, Wallis, Weber

Prepared by: Stephanie Jordan / PUB. S. /
10/25/23 10:52:39

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

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

VETO

Bill No: SB 81
Author: Skinner (D) and Becker (D), et al.
Amended: 9/7/23
Vote: 27

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

SENATE FLOOR: 29-9, 9/14/23
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, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Hurtado, Roth

ASSEMBLY FLOOR: 50-18, 9/13/23 - See last page for vote

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."

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).)

California 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 10/17/23)

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 10/17/23)

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

GOVERNOR'S VETO MESSAGE:

> This bill would establish that a parole candidate who has been denied parole by the Board of Parole Hearings (Board) after reaching their minimum parole- eligible date, youth parole-eligible date, or elderly parole-eligible date has made a prima facie case for habeas relief. This bill, additionally, would modify the judicial standard of review for a parole denial by the Board to require the parole denial to be overturned unless the court finds, by a preponderance of the evidence, that the person presents a current, unreasonable risk of danger to others. Finally, this bill would require the

Board to notify parole candidates the Board finds unsuitable for parole of their right to petition for a writ of habeas corpus.

I am concerned that the bill introduces legal inconsistencies that will have unintended consequences and be detrimental to California's process for assessing suitability for discretionary release on parole.

The current process strikes a delicate balance and has significantly improved parole hearings in recent years, resulting in a one percent recidivism rate among parolees. The changes the bill prescribes will have unpredictable impacts and will result in decades of litigation and uncertainty for victims, families, and those going through the parole process.

ASSEMBLY FLOOR: 50-18, 9/13/23
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, Grayson, Haney, Hart, Holden, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Ortega, Papan, Pellerin, Quirk-Silva, Rendon, Reyes, Luz Rivas, Santiago, 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: Bains, Irwin, Muratsuchi, Stephanie Nguyen, Pacheco, Petrie-Norris, Ramos, Rodriguez, Blanca Rubio, Schiavo, Soria, Villapudua

Prepared by: Stephanie Jordan / PUB. S. /
10/19/23 11:06:00

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

SENATE RULES COMMITTEE SB 90
Office of Senate Floor Analyses
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VETO

Bill No: SB 90
Author: Wiener (D), et al.
Amended: 9/6/23
Vote: 27

SENATE HEALTH COMMITTEE: 10-0, 4/26/23
AYES: Eggman, Glazer, Gonzalez, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NO VOTE RECORDED: Nguyen, Grove

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

SENATE FLOOR: 40-0, 5/22/23
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 FLOOR: 39-0, 9/12/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 79-0, 9/11/23 - See last page for vote

SUBJECT: Health care coverage: insulin affordability

SOURCE: American Diabetes Association

DIGEST: This bill prohibits a health plan contract or disability insurance policy that is issued, amended, or renewed on or after January 1, 2024, or plan or policy offered in in the individual or small group market on or after January 1, 2025, from imposing a copayment, deductible, coinsurance, or any other out-of-pocket expense on an insulin prescription drug that exceeds $35 for a 30-day supply, as specified.

ANALYSIS:

Existing law:

1) Establishes the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act) and the California Department of Insurance (CDI) to regulate health insurers. [Health and Safety Code (HSC) §1340, et seq., and Insurance Code (INS) §106, et seq.]

2) Establishes the Kaiser Small Group Health Maintenance Organization (HMO) as California's essential health benefits (EHBs) benchmark under the Affordable Care Act (ACA), California health insurance mandates, and the ten ACA mandated benefits, including prescription drug coverage. Non-grandfathered individual and small group health plan contracts and insurance policies are required to cover EHBs. [HSC §1367.005 and INS §10112.27]

3) Prohibits, with respect to an individual or group health plan contract or health insurance policy that covers EHBs, the copayment, coinsurance, or any other form of cost-sharing for a covered outpatient prescription drug for an individual prescription for a supply of up to 30 days from exceeding $250; for a product with an actuarial value (AV) at or equivalent to a Bronze level, limits cost-sharing to not more than $500 for a supply of up to 30 days; and for a high deductible health plan (HDHP) the $250 and $500 limits apply only after the deductible requirement is met. [HSC §1342.73 and INS §10123.1932]

4) Requires that, if a health plan contract or insurance policy for a nongrandfathered individual or small group product maintains a drug formulary grouped into tiers that includes a fourth tier, the contract or policy to use the following definitions for each tier of the drug formulary:

    a) Tier one to consist of most generic drugs and low-cost preferred brand name drugs;

b) Tier two to consist of nonpreferred generic drugs, preferred brand name drugs, and any other drugs recommended by the plan's or insurer's pharmacy and therapeutics committee based on safety, efficacy, and cost;
c) Tier three to consist of nonpreferred brand name drugs or drugs that are recommended by the pharmacy and therapeutics committee based on safety, efficacy, and cost, or that generally have a preferred and often less costly therapeutic alternative at a lower tier; and,
d) Tier four to consist of drugs that are biologics, drugs that the Food and Drug Administration (FDA) of the United States Department of Health and Human Services (HHS) or the manufacturer requires to be distributed through a specialty pharmacy, drugs that require the enrollee to have special training or clinical monitoring for self-administration, or drugs that cost the health plan more than $600 net of rebates for a one-month supply. [HSC §1342.73 and INS §10123.1932]

5) Requires every health plan contract and health insurance policy that cover hospital, medical, or surgical expenses to include coverage for equipment and supplies for the management and treatment of insulin using diabetes, non-insulin-using diabetes, and gestational diabetes as medically necessary, even if the items are available without a prescription. Requires coverage for medically necessary insulin, prescriptive medications for the treatment of diabetes, and glucagon. [HSC §1367.51 and INS §10176.61]

6) Requires every plan and policy to provide coverage for diabetes outpatient self-management training, education, and medical nutrition therapy that meets specified requirements including that it is provided by an appropriately licensed or registered heath care professional. [HSC §1367.51 and INS §10176.61]

This bill:

1) Prohibits a health plan contract or disability insurance policy that is issued, amended, or renewed on or after January 1, 2024, or a contract offered in the individual or small group market on or after January 1, 2025, from imposing a copayment, deductible or any other out-of-pocket expense on an insulin prescription drug that exceeds $35 for a 30-day supply.

2) Requires, if a contract or policy for an individual or small group product maintains a drug formulary grouped into tiers, as long as there are at least two insulins of each drug type, in all forms and concentrations, on a preferred tier, the $35 copayment cap to apply only to insulin prescription drugs that are in

Tier 1 and Tier 2. If there is only one insulin for a given drug type, then, as to that insulin, requires that one insulin to be on either Tier 1 or Tier 2.

3) Prohibits an "HDHP," as defined in federal law, from imposing a deductible, coinsurance, or any other cost-sharing on an insulin prescription drug, unless it conflicts with federal requirements for HDHPs.

4) Requires, when the state has the capacity to label or produce an insulin prescription drug, the deductible and copayment limitations to also apply to an insulin prescription drug, or any therapeutic equivalent insulin prescription drug, that is labeled or produced by the state.

5) Defines "insulin prescription drug" as a prescription drug product that contains insulin and is used to control blood glucose levels to treat diabetes.

Comments

Author's statement. According to the author, this bill prohibits health insurers and HMOs from imposing a deductible on an insulin prescription drug, or a copayment for an insulin prescription drug that exceeds $35 for a 30-day supply. This legislation comes at a critical time, as the Attorney General filed a lawsuit against the nation's largest insulin makers and pharmacy benefit managers (PBMs) for driving up the cost of the lifesaving drug through unlawful, unfair, and deceptive business practices. Additionally, Congress capped co-pays at $35 for Medicare but protections for private health plans were stripped out. While the timeline for California to begin manufacturing its own insulin is still unclear, this bill would continue to fill in this gap for many patients. This bill ensures Californians don't have to ration insulin or choose between their insulin and rent.

Inflation Reduction Act. According to a Data Point brief published by the U.S. HHS, Assistant Secretary for Planning and Evaluation, the federal Inflation Reduction Act of 2022 requires effective January 1, 2023, people enrolled in a Medicare Part D prescription drug plan or a Medicare Advantage plan with prescription drug coverage to have no deductible for covered insulin products and have a copayment cap of $35 per month supply of each covered insulin product. Effective July 1, 2023, Medicare Part B beneficiaries or those enrolled in a Medicare Advantage plan who use an insulin pump furnished via durable medical equipment will no longer have to pay a deductible for insulin and will have a copayment cap of $35 per month supply for their Part B covered insulin.

California manufacturing. California has a $50 million contract with the nonprofit generic drug and pharmaceutical company, Civica Rx, to produce the three most commonly used long-acting and rapid-acting types of insulin in both vial and pen forms under a state label called CalRx. Federal approval from the FDA is expected in 2024 and the products will be available publicly shortly thereafter. Civica has announced that the manufacturer suggested prices will be the following: a) A 10mL vial will be made available for no more than $30 (normally $300); and b) A box of 5 pre-filled 3mL pens will be made available for no more than $55 (normally more than $500). CalRx plans to make biosimilar insulins available for Glargine, Aspart, and Lispro (expected to be interchangeable with Lantus, Humalog, and Novolog respectively). For CalRx, no new prescription will be needed. Californians will be able to ask for the CalRx generic at their local pharmacy or via mail order pharmacies. Pharmacies must agree to order and stock the product. Cal Rx insulin prices are estimated to be about 90% lower than list prices for branded products, saving patients between $2,000 and $4,000 annually.

Voluntary price cuts. In March 2023, Eli Lilly, Novo Nordisk, and Sanofi who make up roughly 90% of the U.S. insulin market, all announced they will cap or cut the cost of many of their insulin products. Eli Lilly announced price reductions of 70% for its most commonly prescribed insulins and an expansion of its Insulin Value Program that caps patient out-of-pocket costs at $35 or less per month. Novo Nordisk is also reducing the list price of unbranded biologics to match the lowered price of each respective branded insulin. These changes will go into effect on January 1, 2024. Sanofi announced that it will cut the list price of Lantus (insulin glargine injection), its most widely prescribed insulin in the U.S., by 78%. The company also will establish a $35 cap on out-of-pocket costs for Lantus for all patients with commercial insurance. In June 2022, Sanofi also launched an unbranded Lantus biologic at 60% lower than the Lantus list price, and capped out-of-pocket costs on insulin to $35 for all people without insurance. Finally, Sanofi will also cut the list price of its short-acting Apidra (insulin glulisine injection) by 70%.

Covered California conducted an analysis of a substantially similar bill, SB 473 (Bates, 2022), and analyzed a $35 cap on insulin drugs listed under the Tier 2 category of "preferred drugs." Based on 2022 plan designs, capping Tier 2 insulin drugs alone would have rendered Covered California's bronze plans out of compliance with federal and state laws pertaining to AV, requiring cost-sharing adjustments to be made in other benefit categories. This bill applies a $35 cap to *all* insulin drugs, which would put additional pressure on Covered California's ability to offer products consistent with federal AV requirements. As such,

Covered California recommended narrowing the $35 cap to insulin drugs listed in Tier 1 and Tier 2 for the individual and small group markets (to exclude "non-preferred," more costly drugs commonly listed in Tiers 3 and 4 of drug formularies).

Attorney General action. In January 2023, California Attorney General Rob Bonta announced a lawsuit against the nation's largest insulin makers (Eli Lilly, Novo Nordisk, and Sanofi) and three PBMs (CVS Caremark, Express Scripts, and Optum Rx) for driving up the cost of insulin through unlawful, unfair, and deceptive business practices in violation of California's Unfair Competition Law. The lawsuit alleges these manufacturers and PBMs have leveraged their market power to overcharge patients. The complaint alleges the defendants separately conspired to artificially inflate prices while agreeing to provide secret rebates in an attempt to obtain preferred positions on drug formularies.

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

According to the Assembly Appropriations Committee, CDI estimates costs of $12,000 in fiscal year (FY) 2023-24, $16,000 in FY 2024-25, and $6,000 per year thereafter (Insurance Fund).

DMHC estimates minor and absorbable costs.

SUPPORT: (Verified 9/11/23)

American Diabetes Association (source)
AARP
AFSCME
American College of Obstetricians and Gynecologists District IX
Association of California State Employees with Disabilities
Association of Regional Center Agencies
Biocom California
California Academy of Family Physicians
California Agents and Health Insurance Professionals
California Alliance for Retired Americans
California Association for Health Services At Home
California Black Health Network
California Chronic Care Coalition
California Podiatric Medical Association

California Society of Health System Pharmacists
California State Council of Service Employees International Union
City of Long Beach
Color Health, Inc.
Cystic Fibrosis Foundation
Health Access California
Indivisible CA-StateStrong
Indivisible Yolo
Insulin4All
San Francisco Marin Medical Society
UCLA Chapter of Universities Allied Essential Medicine
Eight individuals

OPPOSITION: (Verified 9/11/23)

America's Health Insurance Plans
Association of California Life & Health Insurance Companies
California Association of Health Plans
California Chamber of Commerce

ARGUMENTS IN SUPPORT: The American Diabetes Association (ADA) writes that according to the Centers for Disease Control and Prevention more than three million, or 10.2% of California's adult populations, has been diagnosed with diabetes. The prevalence increases with age, one out of every six adult Californians aged 65 and above have type two diabetes, and this rate is higher among ethnic/racial minorities and Californians with low family income. A 2018 ADA patient survey confirmed that many individuals who face high out-of-pocket costs for insulin are not adhering to their diabetes care plan- and are instead rationing insulin for financial reasons. Insulin is essential to maintaining appropriate blood glucose levels and reducing the risk of serious complications such as cardiovascular disease, blindness, amputation of the lower extremities, kidney disease and death. When insulin is not taken appropriately, the risk of serious complications and death increases quickly.

The California Black Health Network writes that according to the HHS Office of Minority Health, 13.4% of Black men and 12.7% of Black women have been diagnosed with diabetes. Blacks are twice as likely to develop type two diabetes as Whites. They are twice as likely as non-Hispanic Whites to die from diabetes.

ARGUMENTS IN OPPOSITION: The Association of California Life & Health Insurance Companies and the California Association of Health Plans write that concern over affordability is further underscored in the California Health Benefits Review Program report, as it projects premiums to rise by approximately $62 million. Changing prescription drug benefits in this manner makes it difficult for plans and insurers to meet their statutorily required AV percentages, especially in bronze plans. If a mandated reduction in cost-sharing impacts the AV, plans and insurers may be forced to increase other cost-sharing components in order to keep the overall benefit design within the required AV limits. Currently, prescription drugs are the second highest expense incurred by health plans and insurers. Given the recent news about pharmaceutical companies promising to lower their decade's long rampant price increases, there is further evidence that big pharma companies alone control the underlying price of their products. Previous to these most recent announcements we had seen non-stop price hikes by the drug companies, including a 55% average rise in the cost of insulin since 2014 with no end in sight. The increase far outpaced inflation, without any major medical improvements to the drug. This bill mandating a specific limit on the cost-sharing of a very specific piece of the overall health benefit plan will not achieve the goal of affordable or sustainable healthcare for all.

GOVERNOR'S VETO MESSAGE:

> This bill would prohibit health plans from imposing a copayment of more than $35 for a 30-day supply of an insulin prescription drug.
>
> This bill would prohibit health plans from imposing a copayment of more than $35 for a 30-day supply of an insulin prescription drug. Bringing down the costs of prescription drugs, and particularly insulin, has long been a priority of mine. People should not be forced to go into debt to get lifesaving medicines. In March, I announced the state's partnership with Civica to create our own line of CalRx biosimilar insulins that will cost no more than $30 per l 0ml vial or $55 for five 3ml cartridges. This is a fraction of the current price for most insulins, and CalRx biosimilar insulins will be available to insured and uninsured patients nationwide. With CalRx, we are getting at the underlying cost, which is the true sustainable solution to high-cost pharmaceuticals. With copay caps however, the long-term costs are still passed down to consumers through higher premiums from health plans. As a state, we have led the nation in our efforts and investments to address the true underlying costs of insulin prescription affordability.

ASSEMBLY FLOOR: 79-0, 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, 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

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
10/19/23 11:06:02

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

SENATE RULES COMMITTEE SB 251
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 251
Author: Newman (D)
Amended: 1/3/24
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 1/9/24
AYES: Wahab, Seyarto, Bradford, Skinner, Wiener

SENATE ELECTIONS & C.A. COMMITTEE: 7-0, 1/9/24
AYES: Glazer, Nguyen, Allen, Durazo, Menjivar, Newman, Umberg

SUBJECT: Candidates' statements: false statements

SOURCE: Author

DIGEST: This bill increases the maximum fine for knowingly making a false statement of a material fact in a candidate's statement from $1,000 to $5,000.

ANALYSIS:

Existing law:

1) Permits each candidate for nonpartisan elective office in any local agency, including any city, county, city and county, or district, to prepare a candidate's statement on an appropriate form provided by the elections official. Provides that the statement may include the name, age, and occupation of the candidate and a brief description, of no more than 200 words, of the candidate's education and qualifications expressed by the candidate themself. Permits the governing body of the local agency to authorize an increase in the limitations on words for the statement from 200 to 400 words. Prohibits the candidate's statement from including the party affiliation of the candidate, or membership or activity in partisan political organizations.

2) Requires that a copy of the candidates' statements be made available for public examination for a period of 10 calendar days immediately following the filing deadline for submission of those documents, as specified.

3) Provides that any voter of the jurisdiction in which the election is being held, or the elections official, may seek a writ of mandate or an injunction requiring any or all of the material in the candidates statements to be amended or deleted during the 10-calendar-day public examination period. Requires that the writ of mandate or injunction request be filed no later than the end of the 10-calendar-day public examination period.

4) Provides that a candidate in an election, or an incumbent in a recall election, who knowingly makes a false statement of a material fact in a candidate's statement, is punishable by a fine not to exceed $1,000.

This bill increases the maximum fine for knowingly making a false statement of a material fact in a candidate's statement from $1,000 to $5,000.

Background

Public Examination of Candidate's Statements. The elections official must make a copy of candidate statements available for public examination in the elections official's office for a period of 10 calendar days immediately following the filing deadline for submission of those documents. During the 10-calendar-day public examination period, any voter of the jurisdiction in which the election is being held, or the elections official, may seek a writ of mandate or an injunction requiring any or all of the material in the statements to be amended or deleted.

A peremptory writ of mandate or an injunction shall issue only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

Previous Effort. AB 894 (Frazier, 2017) sought to increase the maximum fine for knowingly making a false statement of a material fact in a candidate's statement. The introduced version removed the $1,000 maximum fine and instead required a candidate or incumbent convicted of knowingly making a false statement of a material fact in a candidate's statement to forfeit the office for which the candidate's statement was prepared. Additionally, if a special election was to be held to fill the vacancy in the office caused by the forfeiture, the candidate or incumbent would have been required to reimburse the jurisdiction for any expenses

authorized and necessarily incurred in the preparation for, and conduct of, the special election.

AB 894 went through various iterations that included forfeiting the office for which the candidate's statement was prepared along with a maximum $1,000 fine and increasing the maximum fine from $1,000 to $10,000. When the AB 894 passed the Legislature, the bill increased the maximum fine from $1,000 to $5,000.

Governor Brown vetoed AB 894. Below is Governor Brown's veto message:

> I am returning Assembly Bill 894 without my signature.
>
> This bill increases the maximum fine for knowingly making a false statement of a material fact in a candidate's statement from $1,000 to $5,000.
>
> I am not convinced this is a widespread problem in California elections or that this bill would be much of a deterrent. The conventional response to resume puffing is exposure by the press or political attack by the opposition.

Comments

1) *Author's statement*. According to the author, "Current law provides various guidelines for which a candidate for elected public office must abide when forming their candidate ballot statement. If a candidate intentionally falsifies information on their ballot statement with the intent to mislead voters, the candidate may be punished by a fine not to exceed $1,000. This fine has not been adjusted since 1993. Many other election related crimes carry a much higher penalty in order to deter these crimes from happening.

   "SB 251 will ensure voters and taxpayers are protected against candidates for public office who intentionally misrepresent their background and mislead voters. Raising the maximum fine from $1,000 to $5,000 will provide a stronger deterrent for candidates who intentionally mislead voters. SB 251 will help protect our fair and open elections in California."

2) *Prior Version*. The prior version of this bill would have prohibited an elected officer from being employed by another elected officer with the same constituency. That version of the bill failed passage in the Senate Elections and Constitutional Amendments Committee by a vote of 2-0 (four votes were needed for passage).

Related/Prior Legislation

AB 894 (Frazier, 2017) would have increased the maximum fine for knowingly making a false statement of a material fact in a candidate's statement from $1,000 to $5,000. AB 894 was vetoed by Governor Brown. Governor Brown's veto message stated, "I am not convinced this is a widespread problem in California elections or that this bill would be much of a deterrent. The conventional response to resume puffing is exposure by the press or political attack by the opposition."

AB 1021 (Rogers, Chapter 57, Statutes of 1982) provided that a candidate in an election, or an incumbent in a recall election, who knowingly makes a false statement of a material fact in a candidate's statement, is punishable by a fine not to exceed $1,000.

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

SUPPORT: (Verified 1/9/24)

California State Association of Counties

OPPOSITION: (Verified 1/9/24)

None received

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
1/11/24 11:12:34

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

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VETO

Bill No: SB 257
Author: Portantino (D), et al.
Amended: 9/8/23
Vote: 27

SENATE HEALTH COMMITTEE: 12-0, 3/29/23
AYES: Eggman, Nguyen, Glazer, Gonzalez, Grove, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/18/23
AYES: Portantino, Jones, Ashby, Bradford, Wahab, Wiener
NO VOTE RECORDED: Seyarto

SENATE FLOOR: 35-0, 5/26/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Alvarado-Gil, Caballero, Rubio, Seyarto, Stern

SENATE FLOOR: 39-0, 9/12/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 79-0, 9/11/23 - See last page for vote

SUBJECT: Health care coverage: diagnostic imaging

SOURCE: American Colleges of Obstetricians and Gynecologists District IX
Susan G. Koman

DIGEST: This bill requires health care coverage without imposing cost-sharing for screening mammography, medically necessary diagnostic or supplemental breast examinations, diagnostic mammography, tests for screening or diagnostic purposes, and medically necessary diagnostic breast imaging, including diagnostic breast imaging following an abnormal mammography result and for an enrollee or insured indicated to have a risk factor associated with breast cancer, including family history or known genetic mutation.

ANALYSIS:

Existing law:

1) Establishes the Department of Managed Health Care (DMHC) to regulate health plans and the California Department of Insurance (CDI) to regulate health insurance. [HSC §1340, et seq. and INS §106, et seq.]

2) Deems mammography for screening or diagnostic purposes covered if there is a referral by a participating nurse practitioner, participating certified nurse-midwife, participating physician assistant, or participating physician providing care to the patient and operating within the scope of practice provided under existing law. Applies this provision to health plans, individual and group policies of disability insurance, and self-insured employee welfare benefit plans.[HSC §1367.65 and INS §10123.81]

This bill:

1) Prohibits, on or after January 1, 2025, health plan and health insurance coverage or a self-insured employee welfare benefit plan from imposing cost-sharing for screening mammography, medically necessary diagnostic or supplemental breast examinations, diagnostic mammography, tests for screening or diagnostic purposes, and medically necessary diagnostic breast imaging, including diagnostic breast imaging following an abnormal mammography result and for an enrollee indicated to have a risk factor associated with breast cancer, including family history or known genetic mutation.

2) Requires diagnostic breast imaging to include breast magnetic resonance imaging, breast ultrasound, and other clinically indicated diagnostic testing. Requires diagnostic breast imaging, diagnostic mammography, and diagnostic and supplemental breast examinations, or other clinically indicated diagnostic testing, to be covered to the extent consistent with nationally recognized evidence-based clinical guidelines.

3) Applies 1) and 2) above to a plan contract that meets the definition of a "high deductible health plan," as set forth federal law only after an enrollee's or insured's deductible has been satisfied for the year.

4) Clarifies that this bill does not authorize enrollees or insureds to receive services when those services are provided from providers outside the plan's or insurer's network unless those services are unavailable within the network consistent with timely access standards, as specified in law.

5) Permits a health plan or disability insurer that provides coverage for out-of-network benefits to impose cost-sharing requirements for the items or services described in this bill that are delivered by an out-of-network provider, except as otherwise required by law.

6) Defines "Diagnostic breast examination" as a medically necessary and appropriate examination of the breast, including an examination using diagnostic mammography, breast magnetic resonance imaging, breast ultrasound, or other clinically indicated diagnostic testing that is either of the following:

   a) Used to evaluate an abnormality seen or suspected from a screening examination for breast cancer; or,

   b) Necessary based on personal or family medical history or additional factors, including known genetic mutations, that may increase the individual's risk of breast cancer.

7) Defines "Supplemental breast examination" as a medically necessary and appropriate examination of the breast, including an examination using breast magnetic resonance imaging, breast ultrasound, or other clinically indicated diagnostic testing, that is either of the following:

   a) Used to screen for breast cancer when an abnormality is not seen or suspected; or,

   b) Necessary based on personal or family medical history or additional factors, including know genetic mutations that may increase the individual's risk of breast cancer.

Comments

According to the author, breast cancer is the second leading cause of death among women of all races. Although it is rare, men can also get breast cancer. Patients

who receive abnormal results on a breast cancer screening or who have a genetic risk factor associated with breast cancer, including family history or known genetic mutation, can be instructed to undergo follow-up testing to ensure that the abnormality is not cancerous. However, health insurance companies in California provide full coverage only for the initial screening mammogram and impose significant cost-sharing for diagnostic imaging if the patients are directed to additional screenings. Such costs cause many to delay or avoid appointments following an abnormal mammography result. This bill provides coverage without imposing cost-sharing for medically necessary diagnostic breast imaging, including diagnostic breast imaging following abnormal mammography, and for an enrollee indicated to have a genetic risk factor associated with breast cancer, including family history or known genetic mutation.

Related/Prior Legislation

SB 974 (Portantino, 2022) was substantially similar to this bill. SB 974 was vetoed by the Governor, who stated:

> Breast cancer screenings save lives, which is why health plans must provide coverage for mammograms. However, this bill proposes to implement a standard that is not included by the USPSTF and HRSA. The USPSTF is currently in the process of updating their recommendations on breast cancer screening; until those recommendations are released, this bill is premature.
>
> Furthermore, the bill prohibits health plans and insurance policies from imposing cost-sharing for these services, which exceed the requirements of the federal Affordable Care Act, and will result in increased health care costs. According to CHBRP, this bill would increase premiums by $117,550,000, a significant impact that would be felt by many Californians. The State must weigh the potential benefits of all mandates with the comprehensive costs to the entire delivery system.

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

According to the Assembly Appropriations Committee:

1) Minor and absorbable costs to the DMHC.

2) CDI estimates costs of $37,000 in fiscal year 2024-25 to review insurance policies for compliance with this bill (Insurance Fund).

3) Based on the California Health Benefits Review Program (CHBRP) analyses for SB 974 (Portantino), of the 2021-22 Legislative Session, and AB 2024

(Friedman), of the 2021-22 Legislative Session, which were similar to this bill, this bill will increase aggregate premiums for CalPERS by $5.4 million (0.09%). The state pays for approximately 60% of CalPERS enrollees (Public Employees Health Care Fund, special funds).

4) No increases in costs to the Department of Health Care Services, as Medi-Cal already covers breast imaging without cost sharing.

5) Based on the previous CHBRP estimates, this bill will reduce aggregate cost sharing by $73.8 million, but increase overall health expenditures by $43.7 million for enrollees in DMHC-regulated plans and CDI-regulated policies, due to a $117.6 million increase in total health insurance premiums paid by employers and enrollees for newly covered benefits. However, most of these costs are not borne by the state.

SUPPORT: (Verified 9/7/23)

American Colleges of Obstetricians and Gynecologists District IX (co-source)
Susan G. Koman (co-source)
Albie Aware Breast Cancer Foundation
American Association of University Women, California
American Association of University Women, San Jose
American Cancer Society Cancer Action Network
Biocom
California Academy of Family Physicians
California Academy of Preventive Medicine
California Chronic Care Coalition
California Life Sciences
California Medical Association
California Professional Firefighters
California Radiological Society
California Society of Plastic Surgeons
California State Council of Service Employees International Union
City of Hope National Medical Center
Color Health, Inc.
Medical Imaging and Technology Alliance
National Association of Social Workers, California Chapter
National Health Law Program
Western Center on Law and Poverty

OPPOSITION: (Verified 9/7/23)

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

ARGUMENTS IN SUPPORT: Susan G. Koman, one of the co-sponsors of this bill, writes this bill will eliminate out-of-pocket costs for medically necessary diagnostic and supplemental breast imaging. Eliminating this financial barrier will ensure Californians have access to no-cost diagnostic services that allow them to identify breast cancer cases earlier and begin treatment sooner and will greatly increase patients' chances of survival. Individuals at a higher risk of breast cancer or those requiring follow-up imaging due to an abnormal mammogram result face hundreds to thousands of dollars in patient cost sharing. This bill ensures fair and equitable access to these services by eliminating the out-of-pocket costs for medically necessary imaging tests. According to the American Colleges of Obstetricians and Gynecologists District IX, the other co-sponsor of this bill, regular breast screening can help find cancer at an early and more curable stage. A woman may be at high risk of breast cancer if she has certain risk factors including a family history of breast cancer, ovarian cancer, or other inherited types of cancer; BRCA1 and BRCA2 mutations; chest radiation treatments at a young age; and a history of high-risk breast biopsy results. Screening also can find problems in the breasts that are not cancer. Using x-ray technology, mammography is currently the primary tool used to screen for breast cancer and other problems, but other diagnostic breast imaging may be utilized as well. Despite these advantages of increased cancer detection, not all private insurer and health plans cover this diagnostic testing and many still require patients to pay out-of-pocket. The ability to pay for breast cancer screening – whether it be for lack of coverage or high-cost sharing – should not be an impediment for patients to receive this care.This bill eliminates this problem by removing the financial barriers of co-pays and deductibles for these life-saving screening tests.

ARGUMENTS IN OPPOSITION: The California Association of Health Plans, the Association of California Life and Health Insurance Companies, and America's Health Insurance Plans write in opposition to this along with 22 other health insurance mandate bills. These bills include mandates for health plans and insurers to cover specific services, as well as bills that eliminate cost sharing and limit utilization management, which have similar cost impacts as coverage mandates. Moreover, they will increase costs, reduce choice and competition, and further

incent some employers and individuals to avoid state regulation by seeking alternative coverage options. State mandates increase costs of coverage – especially for families who buy coverage without subsidies, small business owners who cannot or do not wish to self-insure, and California taxpayers who foot the bill for the state's share of those mandates. Benefit mandates that do not promote evidence-based medicine can lead to lower quality care, over- or misutilization of services, and higher costs for treatments that may be ineffective, less safe, or higher cost than other, new or trusted services. California is rightly focused on achieving both universal coverage and cost containment at a time when the national conversation has shifted toward lower costs through less comprehensive options. The California Chamber of Commerce writes employer-based health care coverage is usually one of the largest expenses a business experiences and, while this bill is well-intentioned, it will unintentionally exacerbate health care affordability issues.

GOVERNOR'S VETO MESSAGE:

> This bill would require health plans to provide coverage without cost-sharing for screening mammography, medically necessary diagnostic or supplemental breast examinations, diagnostic mammography, testing for screening or diagnostic purposes, and medically necessary diagnostic breast imaging. I appreciate the author's efforts to improve access to preventive health care services, particularly breast cancer. Breast cancer screenings save lives, which is why health plans already must provide coverage for primary screening mammograms, without cost sharing for women aged 40 to 74. However, this bill exceeds the cost sharing provisions under the Affordable Care Act. As such, this policy would result in unknown costs to health plans passed on to consumers through premiums. The State must weigh the potential benefits of all new mandates with the comprehensive costs to the entire delivery system.

ASSEMBLY FLOOR: 79-0, 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, 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

Prepared by: Teri Boughton / HEALTH / (916) 651-4111
10/19/23 10:43:07

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

SENATE RULES COMMITTEE SB 271
Office of Senate Floor Analyses
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VETO

Bill No: SB 271
Author: Dodd (D), et al.
Amended: 9/8/23
Vote: 27

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

SENATE FLOOR: 40-0, 9/14/23
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: 79-0, 9/13/23 - See last page for vote

SUBJECT: Powered wheelchairs: repair

SOURCE: Author

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. This bill 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.

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, 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. This bill 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 DHCS from requiring prior authorization for the repair of a powered wheelchair if the cost does not exceed $1,250, beginning January 1, 2025 until January 1, 2029, among other specifications.

Background

BHGS, EAR, and the Song-Beverly Consumer Warranty Act. Bureau of Household Goods and Services (BHGS), within DCA, is responsible of the oversight and regulation of the EAR, 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 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 10/9/23)

Association of Regional Center Agencies
California Commission on Aging
California Foundation for Independent Living Centers
California Senior Legislature
Californians Against Waste
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
State Council of Developmental Disabilities
South Bayside Waste Management Authority
Yolo County In-Home Supportive Services Advisory Committee
Yolo Healthy Aging Alliance

OPPOSITION: (Verified 10/9/23)

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.

GOVERNOR'S VETO MESSAGE:

> This bill would outline right to repair requirements for businesses that repair complex rehabilitation technology (CRT) powered wheelchairs and would prohibit the Department of Health Care Services (DHCS) from requiring prior authorization for the repair of a CRT powered wheelchair if the cost of the repair does not exceed $1,250.
>
> While I appreciate the author's efforts to increase accessibility and affordability for CRT wheelchair users, prior authorization is a key safeguard for cost containment and prevention of abuse in the Medi-Cal program. Further, setting a monetary threshold for prior authorization in statute creates an additional barrier, should the amount need adjustment in the future.
>
> While I am unable to sign this bill, I am directing DHCS to review the current treatment authorization request policies for complex rehabilitative technology powered wheelchairs and make any necessary adjustments administratively.

ASSEMBLY FLOOR: 79-0, 9/13/23
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, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Villapudua

Prepared by: Dana Shaker / B., P. & E.D. /
10/19/23 11:06:02

****** 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 ******

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VETO

Bill No: SB 303
Author: Allen (D)
Amended: 9/7/23
Vote: 27

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 4/19/23
AYES: Allen, Dahle, Gonzalez, Limón, Menjivar, Nguyen, Skinner

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

SENATE FLOOR: 39-0, 9/12/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

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

SUBJECT: Solid waste: Plastic Pollution Prevention and Packaging Producer Responsibility Act

SOURCE: Author

DIGEST: This bill establishes a non-binding arbitration process for adjudicating disputes between entities subject to the Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54, Allen Chapter 75, Statutes of 2022), revises three definitions in SB 54, and makes other technical and clarifying changes to SB 54.

ANALYSIS:

Existing law:

1) Establishes the California Integrated Waste Management Act of 1989 (IWMA), administered by the CalRecycle, to regulate the disposal, management, and recycling of solid waste. Establishes under the IWMA a state policy goal that at least 75% of solid waste be source reduced, recycled, or composted by 2020. (Public Resources Code (PRC) §§ 40000 et. seq.)

2) Establishes the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which imposes minimum recycled content requirements and source reduction requirements for single-use packaging and plastic food serviceware, to be achieved through an extended producer responsibility (EPR) program. (PRC § 42070)

3) Requires, by January 1, 2025, CalRecycle to adopt regulations necessary to implement and enforce the Plastic Pollution Prevention and Packaging Producer Responsibility Act.

This bill establishes a non-binding arbitration process for adjudicating disputes between entities subject to SB 54, revises three definitions in SB 54, and makes other technical and clarifying changes.

1) Revises three definitions in SB 54 (Allen) including:

    a) Revises "processing" to specify that it is conducted in a way that prioritizes benefits to the environment and minimizes risks to public health and worker health and safety.

    b) Revises the definition of "recycle" or "recycling" to specify that CalRecycle's regulations define guidelines and verification requirements apply to the PRO and any producers complying with the Act, as specified.

c) Revises the definition of "responsible end market" to mean an entity that uses recycled covered material for the manufacturing of products when the manufacturing, including the disposal of contaminants, is conducted in a way that benefits the environment and minimizes risks to public health and worker health and safety. Specifies that "responsible end market" does not include entities that process covered material in a manner that is prohibited under the definition of "recycling."

2) Authorizes an entity that asserts that specific actions taken by a PRO or producer or an entity under contract with the PRO are not consistent with requirements of SB 54 to bring the concern and supporting evidence to the advisory board for discussion and to ask the advisory board to conduct an evaluation.

3) Requires that the advisory board offer a recommendation for resolution, if the assertion is found to be true, within 90 days of submission of the request for a preliminary evaluation. Authorizes, upon the issuance of the advisory board's recommendation, either party to initiate nonbinding arbitration.

4) Authorizes the arbitrator, if the arbitrator makes a specified determination, to propose actions to remedy the disruption, including proposing a revision to the PRO plan.

5) Requires CalRecycle to review the arbitrator's proposed decision within 60 days of receipt; determine whether the arbitrator's proposed decision conflicts with or impedes the requirements, targets, and goals of SB 54; publicly notice any proposed plan revision on its website; and accept comments from the advisory board and the public about any proposed plan revision.

6) Authorizes CalRecycle to approve or reject the proposed plan revision based on specified criteria. Authorizes any party, within 60 days after the arbitrator delivers a proposed decision to CalRecycle and the advisory board, to request that CalRecycle conduct a de novo adjudicative proceeding.

7) Provides that if no action is taken by CalRecycle or other party within 60 days of the arbitrator's proposed decision being submitted to CalRecycle and the advisory committee, the proposed decision shall be deemed final and binding.

8) Specifies that any approved producer responsibility plan remains in effect and must be implemented during any arbitration process pursuant to the bill, and arbitration does not delay the approval of a proposed plan or plan amendment.

9) Requires CalRecycle to include any actions taken pursuant to this bill in a specified report to the Legislature.

Background

1) *Solid waste in California.* For more than three decades, CalRecycle has been tasked with reducing the amount of waste that is landfilled and promoting recycling in California through the IWMA. The IWMA establishes a goal of source reducing, recycling, or composting at least 75% of solid waste generated in the State by 2020. However, according to CalRecycle's 2021 State of Disposal and Recycling, the State's 2021 recycling rate was just 40%. The single largest contributor to this recycling rate was recyclables that were exported out of the state. The statewide recycling rate has declined over the last decade, following a peak of 50% in 2014. The recycling rate has been impacted and may continue to be impacted by global policies like China's National SWORD and the Basel Convention, which restrict the amount of foreign waste these countries will accept.

   The Legislature has enacted various laws to move the needle on the state's waste diversion goal, including policies that target organic material and plastic, two major categories of waste. The Legislature chartered a course toward comprehensive organics recycling in 2016 with the passage of SB 1383 (Lara, Chapter 395, Statutes of 2016), which required local entities to build organics recycling infrastructure to achieve a 75% composting rate by 2025. Major plastics legislation followed in 2022 with the passage of SB 54 (Allen, 2022) which uses an EPR program to significantly reduce plastics in packaging and single-use serviceware.

2) *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. The global production of plastic is responsible for three and a half percent of all greenhouse gas emissions, or more carbon emissions 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 9% 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.

   Once plastics enter the environment, they remain there for hundreds to thousands of years. 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). Because they are so small, microplastics can travel in

the air, in water, and can be easily absorbed by living things and accumulate up the food chain. Microplastics have been found in the most pristine natural environments on earth, including in the deep ocean, pristine areas of national parks, Antarctic sea ice, and in human placentas. Laboratory studies have found that microplastics increase the risk of cancer and disrupt hormone pathways.

3) *The basics of EPR programs*. One strategy to reduce waste generation is to put responsibility on producers to oversee the safe end-of-life of their products through an EPR program. EPR programs rely on industry, formalized in a product stewardship organization (PRO), to develop and implement approaches to create a circular economy that make business sense, with oversight and enforcement provided by the government. EPR programs require producers to factor in costs associated with disposal. In doing so, EPR programs incentivize industry to design products with waste minimization in mind. Currently, there are six statewide EPR programs: paint, carpet, mattresses, pharmaceutical and sharps waste, batteries, and, following the passage of SB 54 (Allen, 2022), packaging and single-use plastic serviceware items.

4) *SB 54 goals.* SB 54 uses an EPR approach to reach ambitious targets to reduce single-use serviceware and packaging through source reduction and postconsumer recycled content. These goals include:

   a) Requiring all covered material sold in the state to be recyclable or compostable by January 1, 2032;
   b) Requiring that all plastic-covered material sold in the state meet a recycling rate of 65% by Jan 1, 2032, with interim goals beginning in 2028;
   c) Prohibiting producers of expanded polystyrene (EPS) from selling EPS food serviceware unless they meet a 65% recycling rate by January 1, 2032; and
   d) Requiring the PRO to pay $500 million per year from January 1, 2027, through January 1, 2037 to fund the program, and authorizes the PRO to collect up to $150 million from plastic manufacturers.

Comments

1) *Purpose of Bill*. According to the author, “In June 2022, the Legislature and Governor approved SB 54, the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which placed California at the forefront of tackling the environmental, health, and monetary costs associated with plastics. SB 303 improves the new law to ensure implementation aligns with legislative intent. Ambiguity in the definitions of "recycling" and "responsible end markets," as well as ambiguity in the dispute resolution process, require crucial clarifications to ensure the program is properly implemented. SB 303 makes

three minor revisions including: a minor edit to the definition of "recycling" to clarify the PRO and producers are responsible for ensuring material meets CalRecycle criteria not local governments or waste haulers; clarification of the definition of "responsible end markets" to better articulate that the end market is where the material is actually reclaimed and reconstituted into new material, not the entire collection and recycling process (which starts with consumers placing the material into a recycling bin and continues with it being sorted at recovery facilities); more detail around the dispute resolution function to make clear that the advisory board, and not CalRecycle, will recommend solutions to any dispute that may arise between the PRO and local governments."

2) *SB 54 Cleanup.* As with any major piece of legislation, SB 54 contained some ambiguities that only became apparent after the bill had been signed into law. Cleanup for SB 54 includes minor spelling corrections and also includes more substantive revisions and clarifications on the author's intent for processes and definitions.

   Most notably, SB 303 establishes a non-binding arbitration process to assist in dispute resolution. Under SB 54, the advisory board handles claims by a local waste hauler that a producer responsibility plan impacts its operations or finances and makes a recommendation to resolve the dispute. SB 303 would permit stakeholders to have a neutral arbitrator review the advisory board's recommendation, who would then submit a proposed decision to CalRecycle for final review and potential approval.

   SB 303 also revises some key definitions in SB 54. The bill amends the definition of "recycling" to clarify that only producers, not waste haulers or local governments, are required to meet recycling requirements in the bill, and revises the definition of "processing" and "responsible end markets" including specifying that the producer or PRO must certify to the CalRecycle that it has baked the criteria for "responsible end markets" into their contracts with entities that act as those end markets.

Related/Prior Legislation

SB 54 (Allen Chapter 75, Statutes of 2022) established the Plastic Pollution Prevention and Packaging Producer Responsibility Act, which imposes minimum content and source reduction requirements for plastic single-use packaging and food service ware through an EPR program.

AB 1080 (Gonzalez, 2019) would have enacted the California Circular Economy and Pollution Reduction Act, which would impose a comprehensive regulatory scheme on producers, retailers, and wholesalers of single-use packaging, overseen by CalRecycle. The bill died at the desk before coming up for Assembly concurrence vote.

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

According to the Assembly Appropriations Committee, CalRecycle estimates ongoing annual staffing costs of $286,000 (California Circular Economy Fund (CCEF) starting in fiscal year (FY) 2024-25 to implement the provisions of this bill. In addition, as discussed in more detail below, CalRecycle notes this bill will delay its ability to develop regulations related to the Act in time to meet its January 1, 2025, deadline, which could result in additional one-time costs of at least $150,000 (CCEF) to reopen and revise its regulations.

SUPPORT: (Verified 10/13/23)

A Voice for Choice Advocacy
Climate Action California
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley

OPPOSITION: (Verified 10/13/23)

None received

GOVERNOR'S VETO MESSAGE:

> This bill would amend the Plastic Pollution Prevention and Packaging Producer Responsibility Act (the Act) by: 1) revising the definition of "recycling," 2) revising the definition of "responsible end markets," and 3) adding an arbitration process for affected parties to contest and revise an approved implementation plan. While I appreciate the author's intent to clarify certain provisions within the Act, this bill will interfere with the Department of Resources Recycling and Recovery (Cal Recycle) 's ability to meet its statutory obligation to adopt regulations pursuant to the Act by January 1, 2025. I encourage the author and stakeholders to work with CalRecycle through the regulatory process on the issues this bill seeks to address.

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
10/25/23 10:52:40

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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VETO

Bill No: SB 354
Author: Ochoa Bogh (R)
Amended: 9/1/23
Vote: 27

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, 5/30/23
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 FLOOR: 39-0, 9/13/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 79-0, 9/7/23 - See last page for vote

SUBJECT: Special education: inclusive education: universal design for learning: inclusive practices

SOURCE: SELPA Administrators of California

DIGEST: This bill: (1) requires the Commission on Teacher Credentialing (CTC) to revise its administrative services credential standards and performance expectations with a focus on inclusive learning environments; and (2) requires the California Department of Education (CDE), in consultation with the CTC, to develop and disseminate guidance on the ways in which inclusive classrooms may be staffed.

ANALYSIS:

Existing law:

1) Requires local educational agencies (LEAs) to ensure the following to address the Least Restrictive Environment (LRE) for individuals with exceptional needs, such that:

   a) To the maximum extent appropriate, individuals with exceptional needs, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

   b) Special classes, separate schooling, or other removal of individuals with exceptional needs from the regular educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

2) Requires that, in accordance with federal law, a free appropriate public education be available to individuals with exceptional needs.

3) Requires that every individual with exceptional needs who is eligible to receive special education instruction and related services receive that instruction and those services at no cost to his or her parents or, as appropriate, to him or her.

4) Establishes the Inclusive Early Education Expansion Program for the purpose of increasing access to inclusive early care and education programs. Authorizes competitive grants to increase access to subsidized inclusive early care and education programs for children up to five years of age, including those defined as "children with exceptional needs" in low-income and high-need communities.

5) Appropriates $15 million one-time General Fund to the CDE for allocation to two specified county offices of education to support the Supporting Inclusive Practices project, for purposes of increasing opportunities for pupils with disabilities to meaningfully participate in the least restrictive environment, as

appropriate, and improving LEA's outcomes on performance indicators as mandated by federal law and the outcomes measured by the California School Dashboard.

This bill:

1) Defines "inclusive practices" to mean evidence-based approaches to education based on a proactive design of learning environments, social-emotional supports, and instruction to address learner variability and identified barriers. Inclusive practices include the structural, professional development, and leadership drivers that recognize and value the diversity of all pupils, and equip support staff, teachers, and administrators with the knowledge and resources to provide effective instruction to diverse learners. Inclusive practices ensure the active engagement of all pupils in their school community in every aspect of pupil life.

2) Requires the CTC, on or before June 30, 2025, to revise its administrative services credential standards and performance expectations to include and strengthen preparation for inclusion with a focus on inclusive learning environments, Universal Design for Learning (UDL), as defined, multi-tiered system of supports strategies (MTSS), effects of mindsets and culture, and the promotion of equitable environments, that includes an overview of the Americans with Disabilities Act, Section 504 of the federal Rehabilitation Act of 1973, the Individuals with Disabilities Education Act (IDEA), individualized education programs (IEPs), child find requirements, and effective general education inclusive classroom practices.

3) Requires administrator preparation programs to ensure that faculty are prepared in inclusive practices, UDL, MTSS, co-teaching, the history of disability and justice, and other evidence-based and high-leverage practices.

4) Requires, subject to an appropriation for this purpose, the CDE, in consultation with the CTC, to, by March 31, 2027, develop and disseminate joint guidance clarifying the ways in which inclusive classrooms and placements may be staffed under current law, as specified.

5) Requires, by March 31, 2026, the CDE, in consultation with the CTC, to submit a report to the appropriate fiscal and policy committees of the Legislature on recommendations for statutory or regulatory changes necessary to eliminate barriers to the staffing of inclusive placements.

6) States that for children who are deaf, hard of hearing, blind, visually impaired, or deaf-blind, inclusive practices and strategies to improve pupil outcomes shall mean placement in settings that provide full access to language and specialized services. States that placement settings that provide full access to language and specialized services for deaf, hard of hearing, blind, visually impaired, or deaf-blind children shall be considered by the team implementing the IEP to serve as the LRE for the child.

7) Requires that, in implementing the section, any discussion of deaf, hard of hearing, blind, visually impaired, or deaf-blind pupils in the LEA setting, including for generalization trainings or UDL, ensure the input and participation of the deaf, hard of hearing, blind, visually impaired, or deaf-blind communities.

Comments

1) *Need for this bill.* According to the author, "It is critical to improve outcomes for students with disabilities, who are far-too-often left behind. SB 354 will ensure that students with disabilities can thrive and develop relationships with their school and community by implementing meaningful, evidence-based inclusive practices in California schools."

2) *What is least restrictive environment/inclusion?* The terms LRE, inclusion, and mainstreaming are often used interchangeably. LRE is defined in federal law to mean "to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled," and that the use of "special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

   There are multiple definitions of "inclusion," but most include the following elements:

   a) Students with disabilities are educated in general education settings with appropriate support.

   b) Students with disabilities participate in other school programs as full members of the school community.

c) School staff support universal access to education.

d) School staff are provided the knowledge, resources, and support to effectively teach all pupils.

Mainstreaming generally refers to the practice of placing students with disabilities, who otherwise are educated in separate settings, in the general education setting for specified periods of time or for specific activities.

3) *LRE is an existing federal indicator for special education accountability purposes.* The federal IDEA requires the US Department of Education to monitor states' implementation of IDEA. Each state is required to develop and submit a State Performance Plan (SPP). The SPP is a six-year plan that includes 17 measures, or indicators, that are related to either IDEA compliance or student performance. Within the SPP, states must set rigorous and measurable annual targets for each of the 17 indicators. States must report their progress in relation to these targets in an annual update—the Annual Performance Report.

   Indicator 5a, from the indicators noted above, measures the least restrictive environment as the percent of children with disabilities, ages 6-22, served inside the regular classroom for at least 80 percent of the day. This is the standard used to assess the level of "inclusion" being achieved by school districts and the state overall for students with disabilities within general education.

4) *Inclusion rates in California are among the lowest in the nation.* The inclusion of students with disabilities in general education classroom settings is an important predictor of positive outcomes. Students with disabilities who spend at least 80 percent of the school day in general education classrooms have fewer absences, higher academic performance, higher rates of grade progression and on-time graduation, and higher rates of college attendance and employment. It is for these reasons that LRE is a federal special education enforcement indicator.

   While each student's unique LRE is determined by their IEP team, state and federal law require that student placements maximize opportunities for students to interact with their peers without disabilities. However, in 2017–18, California had one of the lowest inclusion rates in the country—56 percent compared to a national average of 63.4 percent.

5) *Barriers to inclusion.* The 2015 report by the Statewide Special Education Task Force on Special Education, titled One System: Reforming Education to Serve All Students, noted that "a structural, institutional, philosophical, and habitual divide currently exists in California between general and special education, even though special education has always been defined as part of general education. This divide obstructs the state's ability to create [an] effective, coordinated, coherent system of education."

   The 2018 report, The Segregation of Students with Disabilities, identifies several barriers to inclusion of students with disabilities, including organizational traditions, organizational and workforce capacity, attitudes and beliefs, readiness for inclusion, and the LRE continuum.

   Other barriers commonly identified by participants in the CDE's Supporting Inclusive Practices project include misconceptions about staffing of inclusive classrooms, lack of appropriate instructional materials for use in inclusive classrooms, and licensing and fiscal barriers in early education settings.

6) *Districts with extraordinarily high outcomes for students with disabilities have inclusion, teacher collaboration, and support in common.* The 2015 Statewide Task Force on Special Education report highlighted research showing that school districts "beating the odds" regarding the performance of students with disabilities had several elements in common:

   a) A commitment to including students with disabilities in general education classrooms and ensuring access to the content in the core curriculum.

   b) A focus on collaboration between general education and special education teachers.

   c) Continuous assessment and the use of Response to Intervention strategies to address students' needs and monitor their progress.

   d) Targeted professional learning opportunities for their teachers and administrators.

   e) The utilization of explicit direct instruction teaching methods.

7) *Similar bill vetoed last year*. SB 1113 (Ochoa Bogh, 2022) was similar to this bill. The bill was vetoed by Governor Newsom, who stated:

> This bill requires the California Department of Education (CDE) and the Commission on Teacher Credentialing (CTC) to develop guidance on staffing inclusive classrooms and make recommendations for changes necessary to eliminate barriers to staffing inclusive placements. It also requires the CDE to train the members of the Instructional Quality Commission on the principles and strategies of universal design for learning. Finally, it requires the CTC to update the standards and performance expectations for the administrative services credential to include explicit elements related to inclusion.
>
> I commend the author's dedication to supporting inclusion for all students. Serving students with disabilities in inclusive settings is an essential strategy for improving the academic achievement of these and all students, and one that my administration is committed to advancing. In fact, working with legislative partners we have provided $32 million over the past few years to directly support educators in implementing inclusive practices through a number of systemic investments, including recent investments to expand the Supporting Inclusive Practices Project.
>
> Portions of this bill are either subject to an appropriation or are duplicative of other efforts, and therefore add unnecessary cost pressures to future budgets. However, the concept related to the administrative services credential has merit. I encourage the author to work with the Commission on Teacher Credentialing to consider incorporating Universal Design for Learning during its next comprehensive update of the administrative services credential.

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

According to the Assembly Appropriations Committee:

- One-time special fund costs of $346,000 over two years to CTC to develop and disseminate joint guidance with CDE and submit a report, make changes to credential standards and performance expectations, and fulfill other requirements.
- One-time General Fund costs of about $500,000 to CDE to develop and disseminate joint guidance in consultation with the CTC, and submit a report.

- Unknown Proposition 98 General Fund costs to LEAs to consider certain placement settings in implementing individualized education program or family services plans and to include input from members of certain communities in certain discussions. If the Commission on State Mandates determines these 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.

- Potential ongoing General Fund costs of about $500,000 annually to CDE to provide long-term technical assistance and support to LEAs to implement the guidance that is to be developed as a result of this bill. Potential ongoing Proposition 98 General Fund costs of an unknown amount to LEAs to implement the guidance that is to be developed as a result of this bill.

- This bill does not explicitly require LEAs to implement the guidance, nor does it require CDE to provide technical assistance to LEAs. However, CDE believes the bill's provisions may ultimately require LEAs to implement the guidance that is to be developed as a result of this bill, which is reasonable.

SUPPORT: (Verified 10/17/23)

SELPA Administrators of California (source)
ABC SELPA
Antelope Valley SELPA
Association of California School Administrators
Benicia Unified School District
Beverly Hills Unified School District
California Alliance of Child and Family Services
California Teachers Association
Coalition for Adequate Funding for Special Education
Culver City Unified School District
Dixon Unified School District
East San Gabriel Valley SELPA
East San Gabriel Valley SELPA Community Advisory Committee
East Valley SELPA
Fairfield-Suisun Unified School District
Fresno County SELPA
Greater Anaheim SELPA
Los Angeles County Office of Education
Monterey County SELPA

North Region Special Education Plan Area
Office of The Riverside County Superintendent of Schools
San Luis Obispo County SELPA
Santa Barbara County SELPA
Solano County SELPA
South East Consortium SELPA
Tehama County SELPA
Travis Unified School District
Tri-City SELPA
Vacaville Unified School District
West Contra Costa USD SELPA
Whittier Area Cooperative SELPA
Yolo County SELPA

OPPOSITION: (Verified 10/17/23)

None received

GOVERNOR'S VETO MESSAGE:

This bill requires the Commission on Teacher Credentialing (CTC) to revise its administrative services credential standards and performance expectations with a focus on inclusive learning environments. It also, subject to separate appropriations, requires the California Department of Education, in consultation with the CTC, to develop and disseminate guidance on the ways in which inclusive classrooms may be staffed, and develop and distribute a report on recommendations for statutory or regulatory changes necessary to eliminate barriers to the staffing of inclusive practices.

Serving students with disabilities in inclusive settings is an essential strategy for improving the academic achievement of these and all students, and one that my Administration, like the author, is committed to advancing. However, this bill is substantially similar to SB 1113 of 2022, which I vetoed, and several of the same concerns remain. In particular, portions of this bill are subject to an appropriation and should be considered as part of the annual budget process.

In partnership with the Legislature, we enacted a budget that closed a shortfall of more than $30 billion through balanced solutions that avoided deep program cuts and protected education, health care, climate, public safety, and social service programs that are relied on by millions of

Californians. This year, however, the Legislature sent me bills outside of this budget process that, if all enacted, would add nearly $19 billion of unaccounted costs in the budget, of which $11 billion would be ongoing.

With our state facing continuing economic risk and revenue uncertainty, it is important to remain disciplined when considering bills with significant fiscal implications, such as this measure.

ASSEMBLY FLOOR: 79-0, 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, 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
NO VOTE RECORDED: Essayli

Prepared by: Ian Johnson / ED. / (916) 651-4105
10/25/23 10:52:40

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

SENATE RULES COMMITTEE SB 373
Office of Senate Floor Analyses
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VETO

Bill No: SB 373
Author: Menjivar (D)
Amended: 9/8/23
Vote: 27

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 13-0, 4/10/23
AYES: Roth, Nguyen, Alvarado-Gil, Archuleta, Ashby, Becker, Dodd, Eggman, Glazer, Niello, Smallwood-Cuevas, Wahab, Wilk

SENATE JUDICIARY COMMITTEE: 11-0, 4/18/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, McGuire, Min, Niello, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 36-0, 5/8/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Jones, 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, Min, Roth

SENATE FLOOR: 39-0, 9/13/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 80-0, 9/12/23 - See last page for vote

SUBJECT: Board of Behavioral Sciences, Board of Psychology, and Veterinary Medical Board: licensees' and registrants' addresses

SOURCE: California Association for Licensed Professional Clinical Counselors
California Association of Marriage and Family Therapists
California Association of Social Rehabilitation Agencies
California Council of Community Behavioral Health Agencies
California Psychological Association
California State Association of Psychiatrists
National Association of Social Workers, California Chapter
Psychiatric Physicians Alliance of California

DIGEST: This bill prohibits the Board of Behavioral Sciences (BBS), the Board of Psychology (BOP), and the Veterinary Medical Board (VMB) from disclosing the full address of record of the licensee on the internet and instead requires those boards to disclose the licensee or registrant's city, state, and zip code.

ANALYSIS:

Existing law:

1) Requires the following entities under the jurisdiction of the Department of Consumer Affairs (DCA) to disclose specified information about licensees on their internet websites, including the status of every license issued by that entity and information on enforcement actions, as specified: the Board for Professional Engineers, Land Surveyors, and Geologists; Bureau of Automotive Repair; Bureau of Household Goods and Services; Cemetery and Funeral Bureau; Professional Fiduciaries Bureau; Contractors State License Board; Bureau for Private Postsecondary Education; California Board of Accountancy; California Architects Board; Athletic Commission; Board of Barbering and Cosmetology; Acupuncture Board; BBS, Dental Board; Board of Optometry; BOP, VMB; Board of Chiropractic Examiners; and, Structural Pest Control Board. (Business and Professions Code (BPC) § 27)

2) Prohibits the information disclosed above from including personal information, including home telephone number, date of birth, or social security number. Requires each board or bureau above to disclose a licensee's address of record and permits the board or bureau to allow a licensee to provide a post office box number or other alternate address, instead of the licensee's home address, as the address of record. (BPC § 27)

This bill:

1) Prohibits the BBS, BOP and the VMB from disclosing on the internet, the full address of record of specified licensees and registrants. Requires the BBS, BOP to disclose the city, state, and ZIP code of record for their specified licensees and registrants.

2) States that the provisions of this bill do not apply to secondary documents linked to the BBS, BOP or VMB website, which may contain an address of record.

3) Adds language to address a chaptering issue.

Background

The BBS is responsible for the licensing and regulation of Licensed Marriage Family Therapists, Licensed Clinical Social Workers, Licensed Professional Clinical Counselors and Licensed Educational Psychologists. Each profession has its own scope of practice, entry-level requirements, and professional settings with some overlap in areas. All four of the BBS's licensee and registrant categories provide some form of mental health services to a variety of clients in different settings. Each of the licensed profession groups under BBS must meet specified licensing requirements and practice in certain settings.

The BOP regulates licensed psychologists, psychological assistants, and registered psychologists through the enforcement of the Psychology Licensing Law – also known as the Psychology Practice Act. The Board's mission is to "protect consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession."

The VMB is the regulatory entity responsible for the licensure and regulation of veterinarians, registered veterinary technician, schools and programs along with veterinary premises and hospitals through the enforcement of the California Veterinary Medicine Practice Act.

SB 492 (Rosenthal, Chapter 661, Statutes of 1997) enacted the current the law requiring Internet disclosures of licensee information, including the disclosure of a home address. Subsequent legislation, SB 1889 (Figueroa, Chapter 927, Statutes of 2000) allowed the use of a post office box in substitution of using a home address. Per BPC Section 27, there are 19 boards and bureaus under the jurisdiction of the DCA that are required to post specified information on their respective websites related to licensees, which must include information on suspensions and revocations of licensees along with information about other related enforcement

actions, and the address of a licensee or registrant. BPC Section 27 specifically prohibits the posted public information to include a home telephone number, birthdate or a social security. However, statute is specific, as it requires each entity to disclose the licensee's address of record, and specifically allows for the use of a post office box or other address of record, such as a business address instead of using the licensee's home address. Using a post office box or other address does not alleviate a licensee from the requirement to provide their respective licensing authority with a physical business address or personal residence for administrative and internal use by the licensing authority.

Currently, there are a number of other boards and a bureau under the jurisdiction of the DCA that do not disclose the full address of record for licensees and registrants which include the following: Dental Hygiene Board, Board of Naturopathic Medicine, Board of Occupational Therapy, Board of Pharmacy, Board of Physical Therapy, Respiratory Care Board, Bureau of Security and Investigative Services, and Board of Vocational Nursing and Psychiatric Technicians.

This bill specifically prohibits the BBS, BOP, and VMB from posting a licensee's address of record on the internet, including a post office box or business address of record. However, this bill requires those entities to post the licensees zip code, city and state. This bill does not change any requirement that a licensee must provide an address of record to their respective board for administrative purposes as part of licensing and renewal processes.

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

According to the Assembly Appropriations Committee, the DCA states this bill will require configuration of the search engine to exclude the street address of BBS, BOP, and VMB licensees and holders of military temporary licenses, at a cost of $12,000, which is absorbable. There will be no cost to BBS, BOP, or VMB.

SUPPORT: (Verified 10/9/23)

California Association for Licensed Professional Clinical Counselors (co-source)
California Association of Marriage and Family Therapists (co-source)
California Association of Social Rehabilitation Agencies (co-source)
California Council of Community Behavioral Health Agencies (co-source)
California Psychological Association (co-source)
California State Association of Psychiatrists (co-source)
National Association of Social Workers, California Chapter (co-source)
Psychiatric Physicians Alliance of California (co-source)
AFSCME

Board of Behavioral Sciences
California Access Coalition
Community Solutions for Children, Families and Individuals
County Behavioral Health Directors Association of California
Depression and Bipolar Support Alliance California
PathPoint
Tarzana Treatment Centers, Inc.

OPPOSITION: (Verified 10/9/23)

None received

ARGUMENTS IN SUPPORT: Supporters note, "It is critical that necessary safety measures are in place to protect our therapists, psychologists, counselors, and social workers so they can continue to provide essential mental and behavioral health services for all Californians."

GOVERNOR'S VETO MESSAGE:

> This bill would prohibit the Board of Behavioral Sciences, the Board of Psychology, and the Veterinary Medical Board from disclosing on the internet the public address of record of a licensee or registrant.
>
> I appreciate the author's goal to provide additional safety to these providers; however, this bill would serve as an impediment for patients seeking access to their medical records, as a patient would need their provider's address to make a request. Absent access to addresses on board websites or other publicly accessible sources, patients may need to submit a public records act request to obtain the address needed to request access to their medical records. This could result in a significant delay for patients seeking to obtain their medical records.
>
> There are already protections in existing law for providers that work from their homes and seek to maintain their privacy, including the use of a post office box that avoids the need to disclose their home address. The safety of healthcare providers is paramount, but I cannot support a measure that would restrict patient access when effective alternatives exist to protect the safety and privacy of providers.

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. /
10/19/23 10:43:07

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

Office of Senate Floor Analyses
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CONSENT

Bill No: SB 382
Author: Becker (D)
Amended: 1/4/24
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE JUDICIARY COMMITTEE: 10-0, 1/11/24
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Gonzalez, Laird, Min, Niello, Wiener
NO VOTE RECORDED: Stern

SUBJECT: Single-family residential property: disclosures

SOURCE: Author

DIGEST: This bill requires sellers of single-family residential properties to provide prospective buyers with a notice stating that it may be advisable to obtain and inspection of the home's electrical systems, and a list of the various safety risks and other potential concerns arising from substandard, recalled, or faulty wiring and limited electrical capacity.

ANALYSIS:

Existing law:

1) Requires a seller of a single-family residential property or their agent to provide to a prospective buyer a completed Transfer Disclosure Statement (TDS), and various other disclosures. (Civ. Code §§ 1102-1102.19.)

2) Requires a seller to disclose and describe, as part of the TDS, whether the single-family residence has any significant defects or malfunctions in various components of the home, including the electrical systems. (Civ. Code § 1102.6.)

3) Requires a seller of any single-family residence to deliver the required disclosures:

   a) As soon as practicable before transfer of title, in the case of a sale; or,

   b) As soon as practicable before execution of the contract in the case of a sale by a real property sales contract, a lease together with an option to purchase, or a ground lease coupled with improvements. (Civ. Code § 1102.3.)

4) Exempts transfers of single-family residences that are made pursuant to a court order, pursuant to a foreclosure or mortgage default, by a fiduciary in the administration of a trust, guardianship, conservatorship or estate, from one co-owner to one or more other co-owners, to a spouse, pursuant to a dissolution of marriage or legal separation, to or from any governmental entity, and made under various other circumstances, as specified. (Civ. Code § 1102.2.)

5) Provides that, if any information disclosed is subsequently rendered inaccurate as a result of any act, occurrence, or agreement after the disclosure is delivered it does not constitute a violation of the disclosure requirements. (Civ. Code § 1102.5.)

6) Allows that any disclosure may be amended in writing by the seller or their agent as soon as practicable. (Civ. Code § 1102.9.)

7) Requires that disclosures are delivered to a prospective buyer by personal delivery or by mail, and allows delivery to the prospective buyer's spouse. (Civ. Code § 1102.10.)

8) Specifies that no transfer of a single-family residence shall be invalidated solely because of the failure to comply with the disclosure requirements, but that a person who willfully or negligently violates or fails to perform the disclosure duties shall be liable for actual damages. (Civ. Code § 1102.13.)

9) Creates a duty on real estate agents representing sellers in certain transactions to make a competent visual inspection of the property and disclose to the prospective buyer or tenant all facts materially affecting the value or desirability of the property. (Civ. Code § 2079.)

This bill requires a seller, or a seller's agent, on or after January 1, 2026, to provide a prospective buyer the following disclosure statement:

> In a purchase of real property, it may be advisable to obtain an inspection of the electrical systems of any buildings, including, but not limited to, the main

service panel, the subpanel(s), and wiring. Substandard, recalled, or faulty wiring may cause a fire risk and may make it difficult to obtain property insurance. Limited electrical capacity may make it difficult to support future electrical additions to the building(s), such as solar generation, electric space heating, electric water heating, or electric vehicle charging equipment.

Comments

Author's Statement. According to the author:

> Many homes, especially older homes, contain electrical service panels that are widely known to have serious safety problems. The National Fire Protection Association reports that home electrical systems are responsible annually for about 31,500 home fires and 400 home fire-related deaths and are also the leading cause of home fire property damage. In addition to the serious safety concerns, these unsafe panels and wiring may make it very expensive or impossible to obtain property insurance for the home – at a time when property insurance is already becoming more expensive and harder to get for all homeowners. At the same time, the state's efforts to reduce greenhouse gas emissions are creating new demands on the electrical systems of our homes for EV chargers, electrical water heaters, and electrical space heating. Many older holes have insufficient electrical capacity to support these extra loads, which could force the homeowner to spend thousands of dollars to replace their electrical panel and possibly other wiring within the home.
>
> Prospective home buyers should be warned of these potential problems and advised that an assessment of the electrical systems of a building may be a prudent precaution prior to completing a purchase of the home. SB 382 will require sellers of residential property to include a disclosure with this kind of warning and advice. Most residential building buyers are not sophisticated about electrical systems and are often unaware of regulations that may force them to spend thousands of dollars upgrading outdated, under-sized, or dangerous electrical systems. SB 382 will help protect prospective home buyers from making costly mistakes when evaluating a building by making sure that they are properly informed of any lurking electrical system problems and can fairly evaluate those problems in their purchase decisions.

Current disclosures required by law to be given to potential buyers of single-family residential properties. This bill adds a provision to Sections 1102 to 1102.19 of the Civil Code (Article 1.5 of Chapter 2, Title 4 of Part 4, Division 2 of the Civil Code relating to Property), which relates to disclosures required to be provided to a potential buyer of a single-family residential property. That Article contains the

TDS, a statutorily-mandated document of disclosures that a seller must provide a potential buyer, outlining the conditions and issues with the property of which the seller is aware (Cal. Civ. Code § 1102.6). Disclosures required by the TDS include any known significant defects in the insulation, roof, foundation, plumbing and sewers, and electrical systems, among others. It requires an explanation of any noted defects, and also requires a comprehensive list of appliances and other features present on the property, along with an extensive questionnaire relating to specific dangers or issues known about the property. In addition to the TDS contained at Section 1102.6, Article 1.5 includes a number of other required disclosures and notices that a seller must make to a potential buyer. For example, Section 1102.19 requires a seller to disclose to a potential buyer whether the property is located in a designated high or very high fire hazard severity zone, and Section 1102.6, Subsection G, requires every real property sale contract to include a notice regarding the requirement that a property appraisal be unbiased.

With some specified exceptions, the disclosure requirements in Article 1.5 apply to any transfer by sale, exchange, real property sales contract, lease with an option to purchase, or a ground lease coupled with improvements of a single-family residential property (Cal. Civ. Code § 1102(a)). The disclosures must be provided to the prospective buyer either as soon as practicable before transfer of title, or in the case of a sale by a real property sales contract, a lease together with an option to purchase, or a ground lease coupled with improvements, as soon as practicable before the making or acceptance of an offer (Cal. Civ. Code § 1102.3). The seller must indicate that they have complied with the disclosure requirements in Article 1.5, either on the real property sales contract, lease, or on an addendum or separate document.

If a disclosure or amendment to any previously-made disclosures is delivered after the execution of an offer to purchase the home, Section 1102.3 provides that the prospective buyer is allowed three days (if the disclosure is delivered in person) or five days (if the disclosure is delivered by mail or electronically) in which to back out of the sale without repercussions (Cal. Civ. Code § 1102.3(c)). This provision provides buyers with an easy remedy if an issue arises in the disclosures that is material to the buyer's decision to purchase the property, and can create an opportunity for additional negotiations between the parties around the issue.

In addition to the disclosures required by Article 1.5, existing law also imposes on real estate agents representing clients in certain transactions the duty to make a competent visual inspection of the property to disclose to the prospective buyer or tenant all facts materially affecting the value or desirability of the property (Cal. Civ. Code § 2079).

This bill requires potential buyers to be advised of the potential risks associated with old, recalled, or faulty electrical systems. In addition to the various disclosures and notices required by Article 1.5, this bill requires that sellers provide to prospective buyers of single-family homes a notice regarding potential issues with a home's electrical panels. Specifically, this bill requires that prospective buyers be advised that it may be advisable to obtain an inspection of the electrical systems, including of the main service panel, subpanels, and wiring. It additionally includes notices regarding potential issues that substandard, recalled, or faulty wiring and limited electrical capacity may pose, stating:

> Substandard, recalled, or faulty wiring may cause a fire risk and may make it difficult to obtain property insurance. Limited electrical capacity may make it difficult to support future electrical additions to the building[s], such as solar generation, electric space heating, electric water heating, or electric vehicle charging equipment.

This notice would not be required to be provided to prospective buyers until January 1st, 2026. Thus, starting in 2026, this bill ensures that prospective home buyers are made aware of the importance of obtaining an inspection of the electrical system, and alert prospective buyers to some of the issues that might arise from an old or faulty electrical system. It does not require any specific disclosure regarding the home's electrical system itself, though the TDS and realtor's duty to disclose facts materially affecting the value of the property arguably cover significant defects and other electrical issues. This bill also does not amend the TDS itself, instead providing for the notice in a new section of Article 1.5, therefore allowing the seller to provide the notice in a separate document. However, the same provisions relating to the other disclosures required by Article 1.5 would apply to this bill's provisions: the notice would need to be provided within the timeline of Section 1102.3 as described above, and a prospective buyer would have the prescribed three or five days from disclosure to potentially terminate the sale.

Like other disclosure requirements in Civil Code Section 1102, a potential buyer would have some remedies for a willful or negligent violation of this bill's disclosure requirement. Civil Code Section 1102.13 specifies that just the failure to comply with the disclosure provisions of Article 1.5 shall not be a sole basis to invalidate the transfer of title of the residential property at issue. However, the Section does provide that a person who willfully or negligently fails to perform the duties or violates the disclosure requirements in Article 1.5 is liable for any actual damages that a buyer suffers as a result of that violation (Cal. Civ. Code § 1102.13).

Because this bill is adding a new section to Article 1.5, the provisions at Civil Code Section 1102.13 providing liability would apply to a violation of this bill's requirements. Thus, if a seller willfully or negligently fails to include the notice required by this bill, a buyer may be able to sue the seller for actual damages. This would mean that, if a buyer is not provided the required notice, and perhaps would have requested a replacement of the home's electrical panel or some other remedy if they had received such a notice – for example, because they intended to install an electric vehicle charging station in the home – they may be able to recover the costs they incurred after the violation. However, the buyer would have to prove the failure was willful or negligent, and would not be able to undo the sale, just as they would not be able to do with any other violation of the disclosure provisions in Article 1.5.

[NOTE: See the Senate Judiciary Committee analysis for a more detailed background of this bill.]

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

SUPPORT: (Verified 1/11/24)

Building Decarbonization Coalition
Institute for Market Transformation
Natural Resources Defense Council
Rocky Mountain Institute
Western Electrical Contractors Association

OPPOSITION: (Verified 1/11/24)

None received

ARGUMENTS IN SUPPORT: According to the Natural Resources Defense Council, Rocky Mountain Institute, Building Decarbonization Coalition, and the Institute for Market Transformation, who are in support of this bill:

> [SB 382] will ensure that prospective homebuyers are informed of problems with the electrical panels and other electrical systems of residential buildings for sale so that they can avoid being surprised later by the need to spend thousands of dollars to fix these foreseeable problems.
>
> Many homes, especially older homes, contain electrical service panels that are widely known to have serious safety problems, which can lead to fires or electrocution. The National Fire Protection Association reports that home

electrical systems are responsible annually for an average of about 31,500 home fires and 400 home fire-related deaths. These fires also cause $1.3 billion in direct property damage annually.

At the same time, it is important that homes' wiring and service panels are safe and serviceable as we transition from polluting fuels to clean electricity to power EV chargers, electrical water heaters, and electrical space heating. Homeowners planning to increase their use of electricity have the right to know the condition of these systems so that they can make informed purchases.

Many residential building buyers are unaware of issues that may force them to spend thousands of dollars upgrading outdated and dangerous electrical systems. SB 382 will protect prospective home buyers from making costly mistakes when evaluating a building by making sure that they are properly informed of any lurking electrical system problems.

Prepared by: Ian Dougherty / JUD. / (916) 651-4113
1/12/24 11:50:54

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

SENATE RULES COMMITTEE SB 390
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

VETO

Bill No: SB 390
Author: Limón (D)
Amended: 4/10/23
Vote: 27

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 4/19/23
AYES: Allen, Gonzalez, Limón, Menjivar, Skinner
NO VOTE RECORDED: Dahle, Nguyen

SENATE JUDICIARY COMMITTEE: 10-0, 4/25/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, Min, Stern, Wiener
NO VOTE RECORDED: Niello

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 33-0, 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, Wilk
NO VOTE RECORDED: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto

ASSEMBLY FLOOR: 67-0, 9/13/23 - See last page for vote

SUBJECT: Voluntary carbon offsets: business regulation

SOURCE: Author

DIGEST: This bill adds certain claims about voluntary carbon offsets (VCOs) to the False Advertising Law, related to VCOs that are known or should be known to

not be quantifiable, real, and additional, as defined.

ANALYSIS:

Existing law:

1) Establishes the Unfair Competition Law and therein defines "unfair competition" to mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code (False Advertising Law). (Bus. & Prof. Code (BPC) § 17200 et seq.)

2) States that anyone who violates the False Advertising Law is guilty of a misdemeanor. (BPC § 17534)

3) Defines "greenhouse gas" to include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and nitrogen triflouride. (HSC § 38505)

4) Defines terms related to the cap-and-trade program, including CARB's Compliance Offsets Program. (Title 17 CCR, Section 95802)

This bill:

1) Defines twenty-six terms pertaining to carbon offsets, generally in line with existing definitions for compliance offset protocols.

2) Declares the following activities unlawful for a person to do if the person knows or should know that the GHG reductions or GHG removal enhancements of the VCO are unlikely to be quantifiable, real, and additional:

    a) Verify a VCO project;
    b) Certify or issue a VCO;
    c) Maintain a VCO on a registry; or
    d) Market, offer for sale, or sell a VCO.

3) Declares it to be unlawful for a person to market, offer for sale, or sell a VCO—without explicitly marketing the VCO as not being physically equivalent to the climate impact of carbon dioxide emissions—if the person knows or should know either:

a) That the durability of the VCO's GHG reductions (or removal enhancements) are less than the atmospheric lifetime of carbon dioxide; or
b) That the atmospheric lifetime of the GHGs associated with the VCO is less than the atmospheric lifetime of carbon dioxide emissions.

Background

1) *What is a carbon offset?* In its simplest terms, a carbon offset is when one entity who is attempting to reduce their emissions instead pays another entity to then reduce or remove an equivalent amount of emissions, rather than actually reduce their emissions themselves.

   The devil, of course, is in the details. Who is reducing their emissions instead? What emissions are they reducing, avoiding, or removing? Would they have reduced those emissions if they had not been paid through the offset arrangement? Are the offset emissions directly equivalent to the original emissions, or is their equivalence depending on subjective accounting assumptions? These questions and more have swirled around offsets for as long as they have been in use.

   Despite these concerns, carbon offsets are widely used by individuals, corporations, and governments to mitigate their GHG emissions on the assumption that offsets reflect equivalent climate benefits achieved elsewhere.

2) *Voluntary offsets versus compliance offsets*. In California, many of the state's largest polluters are subject to the state's cap-and-trade program. Under the cap-and-trade program, they are required by law to either reduce their emissions by specified amounts over time, or otherwise surrender compliance instruments to cover those emissions. The two available compliance instruments are allowances (which originate from the state providing a set amount each year) and offsets (which originate from entities outside of cap-and-trade offering to reduce or avoid equivalent volumes of emissions). Offsets purchased to comply with cap-and-trade are "compliance offsets"; their use is to comply with mandatory legal obligations.

   In contrast, voluntary carbon markets are not established by governments and participation is voluntary. These markets allow companies, governments, and other organizations to offset their carbon emissions on a voluntary basis, either to meet their own sustainability goals or to demonstrate their commitment to reducing their carbon footprint. The voluntary carbon market is currently smaller than the compliance market, but it is expected to grow as more

governments and businesses seek to increase their climate ambitions while minimizing associated costs.

SB 390 exclusively pertains to voluntary carbon markets. It makes no changes to the ability of cap-and-trade covered entities to use compliance offsets to comply with their cap-and-trade compliance obligations.

3) *Concerns around offsets.* The central idea behind a carbon offset is that it can substitute for GHG emission reductions that an organization would have made on its own. Given the inherent difficulty of proving an impact as compared to something that did not happen, the financial incentives for expert practitioners to advocate for more lenient policies, and the huge diversity of offset-generating projects, it is no wonder the discussions of carbon offsets have been complex and fraught. The stakes are incredibly high as well; if emitting one ton of GHGs is justified because of an offset, and that offset turns out to not be real, then emissions will continue to rise unabated regardless of the accounting performed.

4) *Junk offsets*. Not all offsets are created equal. The lack of regulation and oversight of VCO markets in particular results in offsets being issued and sold that are highly unlikely to generate the carbon benefits that they claim to represent, which can be referred to as "junk offsets." Junk offsets inflict harm in two primary ways. First, buyers of offsets who sincerely believe that purchasing an offset will finance projects that generate carbon benefits are defrauded when they are sold a junk offset that fails to deliver such benefits. Second, corporate buyers of junk offsets may greenwash their activities (intentionally or unintentionally) if they use the offsets in their accounting of the corporation's carbon footprint, which may result in claims to customers, employees, and investors that are inaccurate.

5) *The Federal Trade Commission's (FTC's) Green Guides*. The Green Guides are designed to help marketers avoid making environmental claims that mislead consumers. The FTC's most recent update of the Guides includes, among other things, guidance on marketers' claims about carbon offsets. On carbon offsets, the FTC's Green Guides read:

    a) Given the complexities of carbon offsets, sellers should employ competent and reliable scientific and accounting methods to properly quantify claimed emission reductions and to ensure that they do not sell the same reduction more than one time.

b) It is deceptive to misrepresent, directly or by implication, that a carbon offset represents emission reductions that have already occurred or will occur in the immediate future. To avoid deception, marketers should clearly and prominently disclose if the carbon offset represents emission reductions that will not occur for two years or longer.
c) It is deceptive to claim, directly or by implication, that a carbon offset represents an emission reduction if the reduction, or the activity that caused the reduction, was required by law.

Comments

1) *Purpose of bill.* According to the author, "Junk carbon offsets undermine our climate goals, defraud purchasers of offsets, and contribute to the greenwashing of corporate operations. These voluntary offsets are purchased by consumers and businesses to counterbalance their carbon footprints. But unfortunately, some offsets are created by projects that fail to provide quantifiable and additional carbon benefits, which completely undermines their purported purpose. While California has a regulatory framework for compliance offsets as part of our cap-and-trade program, there are no state or federal laws that provide clarity or establish standards for voluntary carbon offsets. SB 390 will establish baseline standards that participants in voluntary carbon offset markets must meet in order to offer their products for sale in our state. If a California consumer or business purchases a carbon offset, that offset must represent the real carbon benefits claimed by the issuer or seller of the offset."

2) *Buyer beware*. The markets for voluntary carbon offsets lack any specific regulatory framework to protect against fraud and the sale of low-quality offsets that are unlikely to deliver purported climate benefits. This bill seeks to incentivize market actors to issue and offer for sale only those offset credits that are likely to generate quantifiable, real, and additional GHG emissions reductions or GHG removal enhancements that would not have been generated but for the financial benefit from issuing the offset.

   There is a chance that, fearing litigation under this act, VCO markets and providers may offer fewer VCOs for purchase. However, if the VCOs they no longer offer were not quantifiable, real, or additional, was there really any climate value in those offsets being sold in the first place?

   All in all, this bill represents a thoughtful approach to ensuring the VCOs sold on these markets are not deceiving well-intentioned buyers. Ultimately, this

should serve to protect the state's best interests on climate action without enforcing prescriptive governmental regulations on the non-governmental VCO markets.

3) *Comparing atmospheric lifetimes*. Besides making it unlawful to claim VCOs are quantifiable, real, and additional when a person knows (or should know) they are not, SB 390 also addresses the timescales of the GHGs associated with the VCO as compared to CO2. This is important because no two gases behave exactly the same in the atmosphere, especially when their global warming potential (GWP) versus CO2 is considered over time. One ton of methane results in warming equivalent to 86 tons of CO2 in the first 20 years after the gases are released, but only equivalent to 25 tons over the first 100 years. In other words, methane has a 20-year GWP of 86, and a 100-year GWP of 25. This distinction affects what one CO2 equivalent (CO2e) truly represents. For instance, when CARB reports emissions in CO2e, they use a 100-year GWP for all gases. If they were to use a 20-year GWP, the same underlying data would have a very different outcome. SB 390 would still allow projects involving different gases to generate, sell, and market VCOs, but they would require explicit explanation that the offsets are not physically equivalent to CO2 emissions. This then allows buyers to make informed decisions about the offsets they buy to support their claims.

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

SUPPORT: (Verified 10/9/23)

California Environmental Voters
San Francisco City Attorney David Chiu
23 academic professionals

OPPOSITION: (Verified 10/9/23)

None received

GOVERNOR'S VETO MESSAGE:

> This bill makes certain actions related to voluntary carbon offsets subject to the False Advertising Law, including with respect to offsets that a person knows, or should have known, do not durably reduce greenhouse gases in an amount equal to the "atmospheric lifetime" of carbon dioxide emissions.
>
> I support the author's intent to bring greater transparency to the verification,

issuance, and sale of voluntary carbon offsets, and to address the problem of so-called "junk offsets." However, by imposing civil liability for even unintentional mistakes about offset quality, this bill could inadvertently capture well intentioned sellers and verifiers of voluntary offsets, and risks creating significant turmoil in the market for carbon offsets, potentially even beyond California. I encourage the author to consider an alternative approach to ensuring voluntary carbon offset quality that avoids these unintended consequences.

ASSEMBLY FLOOR: 67-0, 9/13/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Dixon, Flora, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, Mathis, 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, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Alanis, Chen, Megan Dahle, Davies, Essayli, Vince Fong, Gallagher, Hoover, Lackey, Jim Patterson, Joe Patterson, Sanchez, Ta

Prepared by: Eric Walters / E.Q. / (916) 651-4108
10/19/23 10:40:47

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

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VETO

Bill No: SB 391
Author: Blakespear (D)
Amended: 9/7/23
Vote: 27

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/19/23
AYES: Cortese, Wilk, Durazo, Laird, 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

SENATE FLOOR: 39-0, 9/13/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 80-0, 9/12/23 - See last page for vote

SUBJECT: Workers' compensation: skin cancer

SOURCE: California Fish and Game Warden Supervisors and Managers Association
California Statewide Law Enforcement Association

DIGEST: This bill expands the existing workers' compensation presumption for skin cancer by including peace officers of the Department of Fish and Wildlife (DFW) and the Department of Parks and Recreation (DPR) whose primary duties are law enforcement.

ANALYSIS:

Existing law:

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

2) Establishes within the workers' compensation system temporary disability benefits that offer wage replacement equal to 2/3 of a specified injured employee's average weekly wages for up to 240 weeks while an employee is unable to work due to a workplace illness or injury.

3) Establishes a disputable presumption that the development or manifestation of skin cancer is work related for active lifeguards employed by a city, county, city and county, district, or other public or municipal corporation or political subdivision and active state lifeguards employed by DPR.

4) Entitles specified peace officers to permanent or temporary disability leave, which consists of up to one year of fully paid leave if they are disabled by an injury or illness arising out of and in the course of their duties, paid for out of the Workers' Compensation Fund.

5) Defines the following employees as peace officers:

    a) Employees of DFW whose primary duties are enforcement of the Fish and Game Code; and
    b) Employees of DPR whose primary duties are enforcement of the Public Resources Code.

This bill:

1) Adds peace officers of DFW and DPR, whose primary duties are law enforcement, to the employees covered by the existing workers' compensation presumption for skin cancer.

2) Contains double jointing language with AB 699 (Weber).

Background

This bill expands the existing presumption pertaining to skin cancer, adding approximately 1,000 peace officers of DFW and DPR whose primary duties are law enforcement. This presumption already exists for most lifeguards due to the sun exposure inherent to their jobs and the relative difficulty in which someone could prove a definitive source of skin cancer. The employees proposed to be added in this bill similarly spend a significant portion of their employment hours outside. Conclusive data on occupational sun exposure and its effect on the propensity of skin cancer are somewhat few and far between; however, both the Canadian and Australian governments have found a correlation between outdoor occupations and skin cancer. The author and sponsors of this bill submitted a study request to the Commission on Health and Safety and Workers' Compensation (Commission) in February 2020 to obtain more data. In May 2022, the Commission approved the proposal and work commenced. During that timeframe, the sponsors also took the initiative to consult with occupational medical experts at the University of California, who concluded that, from their review of studies, there is ample evidence that occupational sun exposure is strongly associated with melanoma of the head and neck.

Comments

According to the author, "[California] Fish and Wildlife Officers and State Park Rangers often work 10 to 12 hours per day and many of those hours are spent outside in the sun. For career wildlife officers and park rangers, this amounts to decades outside – far more than the average worker. If you earn your living working outdoors, your sun exposure and risk of skin cancer skyrocket. Solar ultraviolet radiation (UVR), the main risk factor for development of skin cancer, is classified as a group 1 carcinogen by the International Agency for Research on Cancer and World Health Organization. A recent meta-analysis reported that occupationally UVR-exposed workers have almost double the risk of developing cutaneous squamous cell carcinoma (cSCC), and at least a 43% higher risk of developing basal cell carcinoma (BCC) compared with non-exposed workers."

Related/Prior Legislation

SB 1127 (Atkins, Chapter 835, Statutes of 2022) reduced the time period a public safety employer has between the filing of a workers' compensation claim and when the employer must accept liability for a non-rebutted claim and extended the

duration of temporary disability benefits from 104 weeks to 240 weeks for cancer presumption statutes.

AB 334 (Mullin, 2021) would have expanded the existing workers' compensation presumption pertaining to skin cancer by including peace officers of DFW and DPR whose primary duties are law enforcement. Vetoed by Governor. In his veto message, Governor Newsom stated, "A presumption is not required for an occupational disease to be compensable. Such presumptions should be provided sparingly and should be based on the unique hazards or proven difficulty of establishing a direct relationship between a disease or injury and the employee's work. Although well-intentioned, the need for the presumption envisioned by this bill is not supported by clear and compelling evidence."

AB 2665 (Mullin, 2020) was substantively similar to AB 334. The bill was held in the Assembly Insurance Committee.

SB 527 (Block, Chapter 66, Statutes of 2013) added full-time lifeguards employed by the City of San Diego to the class of public safety employees who received enhanced temporary disability benefits when unable to work due to illness or injury that arose out of the course of employment.

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

According to the Assembly Appropriations Committee:

1) Additional workers' compensation premium costs of an unknown amount, potentially in excess of $150,000, to DFW and DPR to the extent the presumption results in benefits awarded to specified peace officers that would not have otherwise occurred (General Fund). The magnitude of such costs also depends on the number of affected employees.

2) Minor and absorbable administrative costs to DFW, DPR, and the Division of Workers' Compensation. Although employers have the opportunity to rebut a presumption and establish an injury is not the result of employment, data shows presumptions are rarely rebutted. Thus, it is assumed state efforts to rebut such presumptions are likely to be rare and resulting costs limited.

SUPPORT: (Verified 10/18/23)

California Fish and Game Warden Supervisors and Managers Association (source)
California Statewide Law Enforcement Association (source)
Audubon California
California Association of Professional Scientists

California Fish and Game Wardens Association
California Waterfowl Association
California Wildlife Officers Foundation
Defenders of Wildlife
Endangered Habitats League
Friends of Fish and Game
Monterey Bay Aquarium
Mountain Lion Foundation
National Wildlife Federation
Oceana
Peace Officers Research Association of California
Planning and Conservation League
The Nature Conservancy
24 individuals

OPPOSITION: (Verified 10/18/23)

None received

ARGUMENTS IN SUPPORT: According to the California Statewide Law Enforcement Association and the California Fish and Game Warden Supervisors and Managers Association:

> California wildlife officers are faced with many dangers ranging from vehicle accidents on remote unimproved forest roads to armed felons who may try to kill us for simply doing their jobs. When the situation goes bad, backup may be many miles or even hours away. These are risks we all accept as wildlife officers. But there is a silent threat that our jobs expose us to that we don't train for like a violent encounter – and that's skin cancer. We spend many hours most days of our career in the sun and experience strongly suggests our wildlife officers have a higher than-average incidence of UV exposure and skin cancer… the California Health and Safety and Workers Compensation Commission contracted with occupational medicine experts from UC San Francisco and UC Berkeley to conduct an effort to validate the claim that wildlife officers and park rangers are at increased risk of skin cancer compared to the general public. As Dr. James McNicholas and Dr. Gina Solomon write in the executive summary of their analysis (attached), "the weight of the evidence is supportive of a causal relationship in the occupational setting. On the ultimate question of whether the peace officers under consideration sustain enough exposure to merit presumption, our medical opinion is that this is reasonable… that exposure is at least as

comparable to other law enforcement officer groups [which already enjoy a presumption]."

For skin cancer types that are less likely to be "substantially caused by occupational exposure to UV radiation," the authors remind that "the employer retains the right to rebuttal." AB 334 passed the legislature unanimously last year but was unfortunately vetoed by Governor Newsom. Nearly 1,000 state employees who put their lives on the line to protect California citizens and our precious natural resources are asking the legislature to have their backs and help us persuade him that this policy is justified and equitable and would be a tremendous benefit to wildlife officers, park rangers, and their families.

GOVERNOR'S VETO MESSAGE:

This bill would create a rebuttable presumption of industrial causation for skin cancer under the workers' compensation system to specified peace officers of the Department of Fish and Wildlife and Department of Parks and Recreation.

A presumption is not required for an occupational disease to be compensable. I vetoed AB 334 in 2021 which was nearly identical to this bill. As stated in my previous veto message, such presumptions should be provided sparingly and should be based on the unique hazards or proven difficulty of establishing a direct relationship between a disease or injury and the employee's work. Although well-intentioned, the need for the presumption envisioned by this bill is not supported by clear and compelling evidence.

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: Dawn Clover / L., P.E. & R. / (916) 651-1556
12/28/23 12:06:53

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

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VETO

Bill No: SB 394
Author: Gonzalez (D), et al.
Amended: 9/1/23
Vote: 27

SENATE ENERGY, U. & C. COMMITTEE: 16-0, 4/18/23
AYES: Bradford, Dahle, Ashby, Becker, Caballero, Dodd, Durazo, Eggman, Gonzalez, Grove, McGuire, Min, Newman, Rubio, Seyarto, Skinner
NO VOTE RECORDED: Stern, Wilk

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, 5/22/23
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 FLOOR: 39-0, 9/13/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 76-1, 9/12/23 - See last page for vote

SUBJECT: Master Plan for Healthy, Sustainable, and Climate-Resilient Schools

SOURCE: California Federation of Teachers
California Labor for Climate Jobs
Generation Up
UndauntedK12

DIGEST: This bill requires the California Energy Commission (CEC), upon appropriation by the Legislature, to convene a group of agencies and stakeholders to develop a master plan for healthy, sustainable, and climate-resilient schools.

ANALYSIS:

Existing law:

1) Establishes a goal of doubling energy efficiency savings from existing building end uses by January 1, 2030. Existing law requires the CEC to establish annual targets for statewide energy efficiency savings and demand reduction to achieve this goal. (Public Resources Code §25310)

2) Establishes the School Energy Efficiency Stimulus Program (also known as the California Schools Healthy Air, Plumbing, and Efficiency Program – CalSHAPE), which provides grants to local educational agencies (LEAs) to fund appliance, plumbing, and HVAC upgrades at schools using ratepayer energy efficiency incentives. Existing law designates the CEC as the third-party administrator of CalSHAPE grants and sunsets the program on January 1, 2027. (Public Utilities Code §§1610 – 1618)

3) Established the Clean Energy Job Creation Program to and allocates Proposition 39 revenues to fund energy efficient retrofits and clean energy installations as well as related improvements and repairs that contribute to reduced operating costs and provide certain non-energy benefits, including improved health and safety conditions in public schools. The program also allocated funds to the State Energy Conservation Assistance Account Education Subaccount (ECAA-Ed) to provide LEAs with no-interest revolving loans to fund energy efficiency and renewable energy projects. (Public Resources Code §26200 et seq.)

This bill:

1) Requires the CEC to work with various stakeholders, including, but not limited to the California Department of Education (CDE), Division of the State

Architect (DSA), Office of Public School Construction (OPSC), and Natural Resources Agency (NRA) to develop a master plan for healthy, sustainable, and climate-resilient schools. Under this bill, development of this master plan is contingent upon the CEC receiving a legislative appropriation.

2) Specifies groups and entities with whom state agencies must engage to develop the master plan, including, but not limited to a selection of stakeholders from different geographic locations prone to climate hazards, stakeholders from diverse demographic backgrounds, and stakeholders from communities with high populations of K-12 students that are socioeconomically disadvantaged, English learners, pupils of color, and students with disabilities.

3) Specifies the contents that must be included in the master plan, including, the following:

   a) Recommendations and strategies for how to align investments in public school buildings, including any potential school bond moneys and federal decarbonization funding, with state building decarbonization goals and climate adaptation needs.

   b) An assessment of a representative sample of the state's existing K-12 buildings and grounds that includes a variety of features, including age and fuel source for all building systems and recommendations for systems to track and analyze inventory data for planning and investments. This bill requires the master plan steering team to use existing data on school building performance to inform the plan.

   c) An assessment of a representative sample of the state's public school buildings and grounds for emissions reductions potential, climate hazards, grid reliability, and climate adaptation potential.

   d) Recommendations on how LEAs can leverage building decarbonization and climate resilience investments to support high-road job opportunities, including labor agreements with unionized workforces and workforce development for the local community and students.

4) Requires the CEC to contract with a nongovernmental entity to review research, data and coordinate the development of the master plan.

5) Requires the completed master plan to be published on specified public agency websites and submitted to the governor and relevant policy committees of the Legislature electronically.

Background

LEAs have diverse and unique energy and climate challenges. California's K-12 facilities include approximately 12,800 schools with more than 714 million square feet of space, making LEAs the largest category of building in the public building sector. Unlike other commercial end users, government buildings generally aren't able to use energy savings to reinvest in more capital improvements, which leads public buildings to require regular cycles of investment to update facilities and replace less efficient appliances. While some district may seek local and state bond or tax funding to make these updates, other districts may seek moneys and tax incentives from the recently enacted Infrastructure Investment and Jobs Act (IIJA) and Inflation Reduction Act (IRA).

This bill seeks to establish a master plan that may help provide LEAs with guidance about the types of building decarbonization and climate resilience investments that can provide benefits for LEAs. However, the diversity of size, condition, and location of California's LEAs creates challenges for providing guidance that meaningfully addresses an LEA's needs. While some LEAs may be seeking to make major investments in fuel switching, electric vehicle (EV) charging, and on-site clean energy generation, other LEAs may need new HVAC systems and water filtration. LEAs with sufficient resources may have little difficulties in taking advantage of new funding opportunities as they arise; however, smaller LEAs and LEAs with limited support resources may require additional guidance and technical assistance to identify the best opportunities for their specific considerations and submit successful applications.

CEC has administered energy efficiency programs supporting LEAs with goals similar to the master plan required by this bill. While the CEC has not established a master plan addressing K-12 buildings' climate adaptation needs, the CEC has administered multiple programs aimed at providing incentives to improve energy efficiency, water savings, and non-energy benefits associated with clean energy and appliance installations in LEA facilities. Following the passage of Proposition 39 in 2012, the CEC administered the Clean Energy and Jobs Creation Program. Between 2013 and 2020, the CEC approved 2,108 applications from 1,739 LEAs for a total $1.53 billion in funding. As part of the program, the CEC also approved 42 loans from the ECAA-Ed program totaling $64.6 million. Following an

extension and revision of the Proposition 39 program in 2017, the program expanded to include the School Bus Replacement Program. As part of this program, the CEC awarded $74.7 million for replacement electric buses and $14.1 million for electric bus charging infrastructure.

This bill requires the master plan to include various components that are similar to the goals of the Clean Energy and Job Creation Program. For example, this bill requires the master plan to include recommendations on how schools can obtain sufficient technical assistance to leverage investments in building decarbonization and climate resilience and encourage workforce development and high-road jobs. During its administration of the Clean Energy and Job Creation Program, the CEC established the Bright Schools Program to provide $3.3 million for technical assistance to help LEAs identify opportunities for energy savings and submit successful funding applications. As part of its administration of the School Bus Replacement Program, the CEC leveraged $1 million in Clean Transportation Program (CTP) moneys to develop and implement an automotive instructor training program for school districts to provide instruction on operating, maintaining, and managing electric buses. This training curriculum was created by a local community college and provided to school districts that received electric buses through the School Bus Replacement Program.

Related/Prior Legislation

AB 841 (Ting, Chapter 372, Statutes of 2020) among other provisions, established the CalSHAPE program to provide stimulus grants to LEAs to fund appliance, plumbing, and HVAC upgrades at schools using ratepayer energy efficiency incentives. The bill also designated the CEC as the third-party administrator of the CalSHAPE program.

SB 110 (Committee on Budget, Chapter 55, Statutes of 2017) and AB 129 (Committee on Budget, Chapter 250, Statutes of 2017) among other requirements, extended the operation of the Proposition 39 program, re-appropriated funds for the purpose of the program, and revised the allocation of Proposition 39 funds for LEAs to establish a competitive grant program for the remainder of the program's operation.

AB 802 (Williams, Chapter 590, Statutes of 2015) required the CEC to establish an energy use benchmarking and public disclosure program for buildings to increase access to energy consumption information.

SB 350 (De León, Chapter 547, Statutes of 2015), the Clean Energy and Pollution Reduction Act of 2015, established new clean energy, clean air and GHG reduction goals. Specifically, the bill established a goal to double energy efficiency in existing buildings by 2030.

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

According to the Assembly Committee on Appropriations:

1) CEC estimates one-time costs of $1.5 million (Energy Resources Programs Account (ERPA) or General Fund) for 10 limited-term positions to develop the master plan. In addition, the CEC estimates one-time costs of up to $5 million (ERPA or General Fund) to fund the work of the nongovernmental agency contractor, given that there are over 10,000 schools throughout the state that may need information and data gathered, researched, and analyzed.

2) DSA estimates ongoing annual costs of approximately $1.9 million for seven positions to implement this bill (Public School Planning, Design and Construction Review Revolving Fund). DSA contends that conducting any type of school inventory, even with a representative sample, is an intensive process. DSA notes its tasks include participating in the interagency process and steering committee, conducting the necessary inventory, conducting research in support of the master plan, and developing any materials necessary to turn the master plan into a series of actionable items, including green building standards and technical assistance to help district implement recommendations.

3) OPSC estimates ongoing annual costs of approximately $434,000 for two positions and $1.4 million ongoing for additional expenditure authority for existing positions to implement this bill (General Fund).
Department of Finance (DOF) notes, for both DSA and OPSC, the costs to participate in the development of the master plan pursuant to this bill are likely minor and absorbable. However, DOF contends the ongoing cost estimates provided by DSA and OPSC "will likely be applicable if a master plan is developed and if the recommendations of the master plan become enacted law." This analysis notes, based on DOF's analysis, the estimates provided by DSA and OPSC, above, are likely future cost pressures should the recommendations of the master plan be required or mandated, and are likely not direct costs of fulfilling the requirements of this bill.

4) The California Department of Public Health (CDPH) estimates ongoing annual costs of approximately $190,000 (General Fund) for one new position to

coordinate with CEC and provide input regarding the various public health and health equity recommendations for ensuring healthy, sustainable, and climate-resilient schools.

5) CDE estimates one-time state operations costs of approximately $50,000 (General Fund) to implement this bill.

6) Costs of an unknown, but likely minor, amount for other departments and state entities to participate in development of the master plan.

SUPPORT: (Verified 10/13/23)

California Federation of Teachers (co-source)
California Labor for Climate Jobs (co-source)
Generation Up (co-source)
UndauntedK12 (co-source)
1000 Grandmothers for Future Generations
2035 Initiative
Alliance for a Better Community
Alliance of Nurses for Healthy Environments
American Academy of Pediatrics, California
Association for Environmental and Outdoor Education
California Climate Voters
California Environmental Voters
California Federation of Teachers
California Green New Deal Coalition
California Labor for Climate Jobs
California Nurses for Environmental Health and Justice
California School Employees Association
California State PTA
Central California Asthma Collaborative
Center for Cities and Schools, UC Berkeley
Center for Ecoliteracy
Children Now
Climate Action Campaign
Climate Action Pathways for Schools
Climate Health Now
CMTA Engineers
Collective Resilience
Education Justice Academy

Fossil Free California
GENup
Green Schools National Network
Green Schoolyards America
Greenpeace USA
Jobs With Justice San Francisco
Labor Network for Sustainability
Let's Green Ca!
Long Beach Alliance for Clean Energy
Menlo Spark
Natural Resources Defense Council
New Buildings Institute
NextGen California
Oil & Gas Action Network
Oil Change International
Our Turn
PODER
Rewiring America
San Francisco Bay Physicians for Social Responsibility
Santa Clara County Office of Education
School Energy Coalition
Schools for Climate Action
SEIU California
Service Employees International Union California
Sheet Metal Workers' Local Union No. 104
Sierra Club California
State Building and Construction Trades Council of California
Strategic Energy Innovations
Ten Strands
TerraVerde Energy
The Climate Center
The Climate Reality Project, Los Angeles Chapter
The Climate Reality Project, San Fernando Valley
Tree People
UFCW Western States Council
UPTE-CWA 9119
Two Individuals

OPPOSITION: (Verified 10/13/23)

None received

ARGUMENTS IN SUPPORT: According to the author:

> California's K-12 students are served by over 1,000 school districts that utilize more than 10,000 facilities, comprising 125,000 acres of grounds, and 730 million square feet of buildings. The students who attend these schools each day are increasingly burdened by climate-related threats such as extreme heat, flooding, wildfire smoke, and other hazards that can harm their health and hinder their ability to learn. A recent report from the Legislative Analyst's Office showed that, as climate change continues to drive extreme weather events and other disruptions, students will face learning loss, food insecurity, and traumatic mental health impacts that are likely to affect their ability to learn and result in diminished academic outcomes.
>
> While the condition of our school facilities plays an integral part in the mission of educating California's students, the State currently has no mechanism for assessing its school facilities' sustainability, and no cohesive strategy to make school buildings and grounds climate-resilient to protect the health and safety of students. It is abundantly clear that for California to meet its climate goals and ensure the educational opportunities of students there must be a comprehensive policy and implementation road map.
>
> SB 394 will address the lack of guidance and planning around school facilities and sustainability by requiring the California Energy Commission to collaborate with various state agencies and education stakeholders to develop a Master Plan for Healthy, Sustainable, and Climate-Resilient Schools. The Master Plan will provide the State and the public with substantive guidance to ensure California's school facilities will be resilient in the face of continuing climate change and its acute impacts on the health and wellbeing of our students. A cohesive plan will also position California to take full advantage of forthcoming grants and incentives for de-carbonization and climate adaptation under the federal Infrastructure Investment and Jobs Act (IIJA) and Inflation Reduction Act.

GOVERNOR'S VETO MESSAGE:

> This bill would require the California Energy Commission, upon appropriation by the Legislature, to convene more than ten state agencies, departments and commissions, as well as numerous stakeholders, to develop a Master Plan for Healthy, Sustainable, and Climate-Resilient Schools. The

Master Plan would be due on or before March 31, 2025, or 15 months after the appropriation is made for this purpose, whichever is later.

While I support the author's goal of making our schools more climate friendly and climate prepared, the development of this Master Plan will cost up to $10 million that was not considered through the annual budget process. Additionally, the Master Plan would create significant long-term cost pressures that are not accounted for in the state budget plan.
In partnership with the Legislature, we enacted a budget that closed a shortfall of more than $30 billion through balanced solutions that avoided deep program cuts and protected education, health care, climate, public safety, and social service programs that are relied on by millions of Californians. This year, however, the Legislature approved bills outside of this budget process that, if all enacted, would add nearly $19 billion of unaccounted costs in the budget, of which $11 billion would be ongoing. With our state facing continuing economic risk and revenue uncertainty, it is important to remain disciplined when considering bills with significant fiscal implications, such as this measure.

ASSEMBLY FLOOR: 76-1, 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, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, 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, Zbur, Robert Rivas
NOES: Gallagher
NO VOTE RECORDED: Essayli, Jones-Sawyer, Wood

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10/19/23 10:40:48

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

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THIRD READING

Bill No: SB 402
Author: Wahab (D)
Amended: 1/12/24
Vote: 21

SENATE HEALTH COMMITTEE: 9-1, 1/10/24
AYES: Eggman, Glazer, Gonzalez, Hurtado, Limón, Menjivar, Rubio, Wahab, Wiener
NOES: Nguyen
NO VOTE RECORDED: Grove, Roth

SENATE JUDICIARY COMMITTEE: 10-0, 1/11/24
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Gonzalez, Laird, Min, Niello, Wiener
NO VOTE RECORDED: Stern

SUBJECT: Involuntary commitment

SOURCE: Author

DIGEST: This bill clarifies that licensed mental health professionals are authorized to initiate involuntary detentions for individuals who are found to be a danger to self or others, or gravely disabled, when designated by a county behavioral health director.

ANALYSIS:

Existing law:

1) Establishes the Lanterman-Petris-Short (LPS) Act to end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, as well as to safeguard a person's rights, provide prompt evaluation and treatment, and provide services in the least restrictive setting appropriate to the needs of each person. Permits the involuntary detention (a "5150 hold") of a person who is

found to be a danger to self or others, or gravely disabled, for various periods of time for evaluation and treatment by a peace officer; professional person in charge of a facility designated by the county for evaluation and treatment; member of the attending staff of a facility designated by the county for evaluation and treatment; designated members of a mobile crisis team; or, professional person designated by the county. (WIC §5000, et seq.)

2) Defines "gravely disabled" as a condition in which a person, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, or impairment by chronic alcoholism is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care, or a condition in which a person has been found mentally incompetent, as specified, for purposes of detaining the person for assessment, evaluation, and treatment; providing a court-ordered evaluation, as specified; certifying the person for intensive treatment; or, placing the person under conservatorship. (WIC §5008)

3) Permits a county behavioral health director to develop procedures for the county's designation and training of professionals who will be designated to perform functions for 5150 holds, as specified. (WIC §5121)

This bill:

1) Clarifies "licensed mental health professionals (LMHP)," as defined, are authorized to initiate involuntary detentions for those who are found to be a danger to self or others, or gravely disabled, when designated by a county behavioral health director.

2) Specifies that an LMHP does not need to be employed by, or contracted with, a county to be eligible for designation.

3) Defines LMHP as a psychiatrist, psychologist, licensed clinical social worker, licensed marriage and family therapist, or a licensed professional clinical counselor who has completed all required supervised clinical experience.

Comments

1) *Author's statement.* According to the author, this bill is vital legislation that will allow for appropriately trained and licensed LMHPs to initiate the placement of an individual experiencing a mental health crisis on a 5150 hold. Currently, LMHPs are significantly limited in providing support to vulnerable

populations. The current framework reveals limitations that hinder our ability to respond adeptly to mental health crises by first responders and health care professionals. This bill seeks to rectify this by authorizing a broader spectrum of LMHPs to intervene promptly in mental health emergencies, all of whom work one-on-one with those struggling with mental health. This strategic expansion aligns with contemporary best practices, ensures more inclusive crisis response, reduces the burden on law enforcement, and ultimately enhances public safety. This bill can save lives.

2) *LPS Act and involuntary detentions.* The LPS Act provides for involuntary detentions for varying lengths of time for the purpose of evaluation and treatment, provided certain requirements are met, such as that an individual is taken to a county-designated facility by county-designated individuals. Typically, one first interacts with the LPS Act through a 5150 hold initiated by a peace officer or other person authorized by a county, including designated members of a mobile crisis team or professional person designated by the county, who must determine and document that the individual meets this standard. A county-designated facility is authorized to then involuntarily detain an individual for up to 72 hours for evaluation and treatment if they are determined to be, as a result of a mental health or substance use disorder, a threat to self or others, or gravely disabled. The professional person in charge of the county-designated facility is required to assess an individual in person to determine the appropriateness of the involuntary detention prior to admitting the individual. Outside of the LPS Act process, a non-designated facility (NDF) is authorized to involuntarily detain an individual for up to eight hours but less than 24 hours after examination, assessment, or evaluation by specified persons. Some NDFs use county-designated persons to make the examinations, assessments, or evaluations prior to either involuntarily detaining an individual or releasing an individual from involuntary detention.

3) *County designation.* The LPS Act permits a county behavioral health director to develop procedures for designating and training people to initiate involuntary holds—outside of peace officers—to include, but not be limited to, the following:

   a) The license types, practice disciplines, and clinical experience of professionals eligible to be designated by the county;

   b) The initial and ongoing training and testing requirements for professionals eligible to be designated by the county;

c) The application and approval processes for professionals seeking to be designated by the county, including the timeframe for initial designation and procedures for renewal of the designation; and,

d) The county's process for monitoring and reviewing professionals designated by the county to ensure appropriate compliance with state law, regulations, and county procedures.

4) *Instances of peace officer-initiated involuntary detentions.* According to the California Hospital Association (CHA), every day California's hospitals care for a significant and growing number of people in a behavioral health crisis. In 2021, patients with behavioral health diagnoses accounted for one in every three patients hospitalized and one-fifth of all emergency department (ED) visits. The crisis is particularly acute for young people, with adolescents' visits to EDs due to a behavioral health crisis climbing by nearly one-third during the pandemic. In one example provided by CHA, a large hospital ED in Fresno County received over 6,100 individuals last year who were on psychiatric holds that were primarily placed by law enforcement. Of these, only 16% were admitted to inpatient psychiatric care and deemed to have met the criteria for involuntary detention. That hospital's current ED boarding time (the time admitted patients are held in the ED, often in hallways, while awaiting an inpatient bed) for individuals on a psychiatric hold, due to lack of available inpatient psychiatric bed placements, is 48 hours. CHA notes that not only are hospitals seeing more Californians in crisis, but people with behavioral health needs spend disproportionately more time waiting in the ED than other patients. While the national quality standard for emergency hospital care is four hours or less, it is common for people in a behavioral health crisis to languish in an ED for days or even weeks while waiting for an inpatient mental health treatment bed to become available.

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

SUPPORT: (Verified 1/11/24)

Treatment Advocacy Center

OPPOSITION: (Verified 1/11/24)

Cal Voices
County Behavioral Health Directors Association of California
Disability Rights California
Mental Health America of California

ARGUMENTS IN SUPPORT: Treatment Advocacy Center (TAC) states that California is one of a minority of states whose statutes are constructed to require law enforcement involvement in order to access emergency evaluation for people in the community. As a practical matter, this means that unless someone is able to arrive on their own in an emergency department and seek admission, the only way to be admitted for care during a psychiatric crisis is following a law enforcement encounter. This contributes to a lack of meaningful access, and the existence of evaluation and treatment bottlenecks throughout California's system. TAC further states that police encounters are incredibly dangerous for individuals in psychiatric crisis and improperly places the role of initially interpreting whether someone meets criteria onto the shoulders of individuals not trained in conducting a clinical analysis. This bill allows this analysis to be done by treatment professionals with an actual and pre-existing relationship with the individual, ensuring better accuracy and decisions based on a more complete picture of a person's needs and status. There is no benefit to a requirement that law enforcement be the sole access point to emergency evaluation.

ARGUMENTS IN OPPOSITION: On a previous version of this bill, Disability Rights California (DRC) states that if a LMHP not otherwise authorized to initiate a 5150 is providing therapy to a person in the community, this bill would authorize that provider to initiate a 5150. Once the provider does that, the mechanics of enforcement will require police to be called because that would seem to be the only way to get a person to the hospital if the person does not want to go. Conversely, if the person is willing to go to the ED, that should be encouraged without the need to take away the person's voluntary status. Voluntary treatment that recognizes a person's autonomy and right of self-determination is far more likely to succeed. DRC asks if a peace officer is called to the office on an LMHP, what would happen if that peace officer disagrees with the provider's assessment for involuntary detention? If law enforcement does not want to detain the person, will the provider/police disagreement play out in real time? DRC states this could be very traumatizing to the person having a mental health crisis and would be a setback in future efforts to gain the person's trust and cooperation. DRC believes the approach in this bill to make it easier to detain people involuntarily will neither improve outcomes nor reduce law enforcement's role. Also on a previous version of this bill, Mental Health America of California (MHAC) states that this bill may deter people from seeking voluntary mental health services. Due to stigma, many individuals refuse to seek help or fully utilize services because of the fear of being placed on a 5150 hold. Trust with a provider is built over time and requires a safe place where people aren't threatened with or have the potential to be forcibly detained while seeking recovery. Expanding 5150 hold authority to mental health professionals won't decrease peace officer involvement as law enforcement is

currently the authority that enforces 5150 holds. Addressing California's mental health crisis means supporting the individual and their right to dignity and autonomy during their recovery process and investing in the interventions that work.

Cal Voices states that massively expanding the number of persons permitted to initiate 5150 holds will result in a higher number of psychiatric holds, which will be initiated in the community in the offices of therapists and psychiatrists. Psychiatric holds are unavoidably involuntary, against the client's will, and clients often react to being placed on a hold with a fight or flight response. If a client is not resisting the placement or a hold or inpatient hospitalization, no hold was necessary or should ever have been placed. Psychiatric, inpatient hospitalization is not an evidence-based practice for the treatment of mental illness. It is unproven to have a net positive effect on the course of a person's illness, including subsequent self-adherence to voluntary care on either a near-term or long-term basis. Clients who have experienced involuntary hospitalization commonly describe experiencing it as carceral and violent. Cal Voices opposed a previous version of this bill unless it is amended to (1) remove the authority of peace officers to initiate 5150 psychiatric holds, and (2) strike the expansion of hold-writing authority to practitioners in private practice.

While this bill has been amended to more in a direction more towards what the opposition would like to see, no formal removal of opposition has been expressed.

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
1/12/24 11:57:27

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

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

VETO

Bill No: SB 403
Author: Wahab (D), et al.
Amended: 8/24/23
Vote: 27

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: 34-1, 5/11/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NOES: Jones
NO VOTE RECORDED: Becker, Dahle, Grove, Nguyen, Seyarto

SENATE FLOOR: 31-5, 9/5/23
AYES: Allen, Archuleta, Ashby, Atkins, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Niello, Ochoa Bogh, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Grove, Jones, Nguyen, Seyarto
NO VOTE RECORDED: Alvarado-Gil, Becker, Padilla, Wilk

ASSEMBLY FLOOR: 55-3, 8/28/23 - See last page for vote

SUBJECT: Discrimination on the basis of ancestry

SOURCE: Alphabet Workers Union – Communication Workers of America
Ambedkar Association of North America
Asian Pacific American Labor Alliance

Equality Labs
Hindus for Caste Equity
Jakarta Movement
Sikh American Legal Defense and Education Fund
Sikh Coalition
South Asian Network
Tech Equity Collaborative

DIGEST: This bill clarifies that discrimination on the basis of caste, as defined, is prohibited as a form of discrimination on the basis of ancestry under existing anti-discrimination statutes; and adds a prohibition on the basis of ancestry to existing anti-discrimination provisions under the Education Code.

ANALYSIS:

Existing law:

1) Establishes the Unruh Civil Rights Act, which provides that all persons in California are free and equal, and regardless of a person's actual or perceived sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status, everyone is entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments. (Civ. Code, § 51.)

2) Provides that it is the policy of this State to afford all persons in public schools equal rights and opportunities in the educational institutions of this state, regardless of their actual or perceived disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, immigration status, or association with a person or group with one or more of these actual or perceived characteristics. (Ed. Code, §§ 200, 210.2.)

3) Provides that no person in the State shall, on the basis of their actual or perceived sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state, including at the California State University. (Gov. Code, § 11135.)

4) Establishes the Fair Employment and Housing Act (FEHA), which prohibits discrimination in housing and employment on the basis of a person's actual or perceived 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 military and veteran status, subject to specified exceptions. (Gov. Code, §§ 12920 et seq.)

5) Establishes the Civil Rights Department (CRD) (formerly DFEH), which is tasked with enforcing California's civil rights laws, issuing publications that will tend to minimize or eliminate prohibited discrimination, providing assistance to communities and persons in resolving disputes relating to discriminatory practices based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, veteran or military status, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, familial status, age, reproductive health decisionmaking, or sexual orientation that impair the rights of persons in those communities under the Constitution or laws of the United States or of this state. (Gov. Code, §§ 12930, 12931.)

This bill:

1) Adds, to 2), a prohibition on discrimination on the basis of ancestry.

2) Defines "ancestry," for purposes of 1)-5), above, as including, but not limited to, lineal descent, heritage, parentage, caste, or any inherited social status; and states that nothing precludes a person from alleging discrimination on the basis of ancestry in combination with discrimination based upon other protected characteristics.

3) Defines "caste," for purposes of 1)-5), above, as an individual's perceived position in a system of social stratification on the basis of inherited status; a system of social stratification on the basis of inherited status may be characterized by factors that may include, but are not limited to: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage, private and public segregation, and discrimination; and social exclusion on the basis of perceived status.

4) Includes chaptering-out amendments to prevent a conflict with AB 524 (Wicks, 2023).

Comments

This bill clarifies that discrimination on the basis of caste is prohibited under the Unruh Civil Rights Act, state laws prohibiting discrimination in publicly funded programs and public education, and FEHA. Specifically, as amended in the Assembly, this bill defines "ancestry," which is already a protected category, to include lineal descent, heritage, parentage, caste, or any inherited social status. This bill further defines "caste" as a person's perceived position in a system of social stratification on the basis of inherited status; a caste system may be characterized by factors that may include, but are not limited to: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage, private and public segregation, and discrimination; and social exclusion on the basis of perceived status. Because caste can intersect with, and incorporate, existing concepts of race and color, ethnicity, and national origin,[1] this bill also clarifies that a person may allege discrimination on the basis of ancestry in combination with discrimination on other bases. This bill also adds "ancestry," along with the definitions of "ancestry" and "caste," to the existing anti-discrimination laws covering the provision of rights and opportunities in public schools.

These changes are intended to provide additional clarity to businesses, employers, and schools about what forms of discrimination are prohibited. While it may seem clear to some that caste is already protected, the reports of caste-based discrimination in the state suggest that employers and other entities are not adequately protecting against this form of discrimination in the absence of a specific statutory reference to caste.
Although caste systems are hierarchical, this bill's definition of "caste" establishes a neutral approach to the nature of caste-based discrimination: "caste" includes anyone's perceived position in a caste system, thereby prohibiting discrimination regardless of whether the position is considered a "high" position or a "low" position in the hierarchy. Accordingly, a person who experienced discrimination because someone believed they were in a dominant caste would have just as much of a claim as a person who experienced discrimination because it was believed they were a member of a historically disfavored caste. Similarly, this bill does not require either the discriminator or the victim of discrimination to identify as being a member of a caste system; a person who believed they were not part of a caste system could still violate the laws if they discriminated against a person based on

[1] For example, some legal scholars argue that caste can be considered a form of race for purposes of the federal Title VII and Section 1981 anti-discrimination laws. (Brown et al., *Does U.S. Federal Employment Law Now Cover Caste Discrimination Based on Untouchability? If All Else Fails There Is The Possible Application of* Bostock v. Clayton County, 46 N.Y.U. Rev. of Law & Social Change 117, 125.)

their understanding of the person's caste, and the person who experienced discrimination need not identify as a member of a caste system as long as they can prove that they were discriminated against as a result of their perceived membership. The bill is also neutral in that it applies to all caste systems, regardless of the origin of the system.

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

According to the Assembly Appropriations Committee, this bill will incur minor state costs, if any, because discrimination on the basis of caste is already prohibited under California law.

SUPPORT: (Verified 8/31/23)

Alphabet Workers Union – Communication Workers of America (co-source)
Ambedkar Association of North America (co-source)
Asian Pacific American Labor Alliance (co-source)
Equality Labs (co-source)
Hindus for Caste Equity (co-source)
Jakarta Movement (co-source)
Sikh American Legal Defense and Education Fund (co-source)
Sikh Coalition (co-source)
South Asian Network (co-source)
Tech Equity Collaborative (co-source)
5B Corp.
99 Plus Mart
A1 Food Store
AAPI Equity Alliance
ACLU California Action
AK Market
AK Trucking
Alameda County Democratic Party, Central Committee
Ambedkar International Center
Ambedkar International Co-Ordination Society
Ambedkar International Mission Center Houston, USA
Ambedkar International Mission Society, Calgary
Ambedkar International Social Reform Organization
Ambedkar International Social Reform Organization, Canada
Ambedkar King Study Circle
Ambedkar Times
Ambedkarite Buddhist Association of Texas

Ambedkarites International Mission Society – Canada
America Golden Property LLC
American Ethnic Ministries
American Gundwara Parbandhak Committee
Americans Against Caste Discrimination
Amrik Chand CPA
Ana Truck Line
Angelo's Pizza & Wings
Arco Broadway
Asian American Disinformation Table
Asian Americans Advancing Justice – Asian Law Caucus
Asian Pacific Environmental Network
Banger Trucking
Begumpura Cultural Society of New York
Bend the Arc: Jewish Action California
Bhim International Foundation USA/Shri Guru Ravidass Sabha
Boston South Asian Coalition
Boston Study Group
Bottles Up
CA Plaza
California Asian Pacific American Bar Association
California Association of Human Relations Commissions
California Coalition for Community Investment
California Democratic Party
California Employment Lawyers Association
California Environmental Voters
California Faculty Association
California Immigrant Policy Center
California Labor Federation
California Mini Mart
Californians for Caste Equity
Carson Inn
Caste Equity Legal Task Force
Center for Empowering Refugees and Immigrants
Chanan G Corporation
Cheaper Cigarette Store
Chetna Association of Canada
Circle A. Auto Service Center
Circle Food Store Inc.
City of Alameda

Coalition of Americans for Pluralism in India
Coalition of Seattle Indian Americans
Coalition of Sikh Communities Across California
Consumer Attorneys of California
Contra Costa Asian American Pacific Islander Coalition
Council on American-Islamic Relations, California
Culver City Democratic Club
Curry Land
Dalit Solidarity Forum
Days Inn Lost Hills
Democratic Party of Contra Costa County
Desh Doaba
DFW Shri Guru Ravidass Organization, Mesquite, TX
Dhamma Waves
Diamond Services CA LLC
Discount Plus Mart
Dr. Ambedkar International Mission, Toronto
Dr. B.R. Ambedkar Educational Aid Society, Fremont, CA
Dr. Cornel West
East Bay for Everyone
East Bay YIMBY
East Bay Young Democrats
Economy Inn Suites, Bakersfield, CA
Ek Panth Ek Soch
Federation of Indian American Ambedkarities of Bay Area
Feminist Critical Hindu Studies Collective
FGS Trucking Inc.
First United Methodist Church of Redding, Anti-racism Task Force
Friends for Education International
Global Bahujan Group
Global NRI Forum
Golden Eagle Property LLC
Grandhaven Laundromat
Great Truth
Gudwara Guru Angad Darbar, Inc.
Gurdwara Gur Nanak Parkash
Gurdwara Gurmat Parkash (Manteca)
Gurdwara Matsuana Sahib, Yuba City
Gurdwara Sacramento Sikh Society
Gurdwara Sahib Fremont

Gurdwara Sahib Hayward
Gurdwara Sri Sachkand Sahib
Gurdwara Sukh Sagar Sahib
Hanford Gas
Har Trans LLC
Harbans Singh Plaza
Health & Life Insurance
Hidden Leaf Foundation
Hindus for Human Rights
HK Parnership
HMH Property LLC
Holiday Inn Express Delano
Hot Box Smok [*sic*] Shop
HR Plaza
I. Korotania Inc.
India Civil Watch International
Indian American Muslim Council
International Bahujan Organization
International Bajuhan Organization CA
International Bodhisattva Guru Ravidass Organization Inc.
Jassal Trans Inc.
JK Liquor Mart
JK Smoke Shop
JS Construction B Development
K & K Laundromat
K & K Quick Stop
K & K Valero
Kaur Ryan Trucking Inc.
KB Used Auto Sales
King's Market
King's Smoke Shop
Korean Community Center of the East Bay
Kumar Investments
Land Park Chevron
Latine Young Democrats of the East Bay
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Legal Aid at Work
Love Never Fails
M & J's Smoke Shop
Majestic Homes

Majitpal Singh Inc.
Mario's Auto Repair
Mazik Smoke Shop
me too. International
Mental Health Professionals for Caste Equity and Healing
MGM Tobacco and Mini Mart
MHC Trans Inc.
NAACP Hayward South Alameda County
Nanaksar Darbar Langar Mata Sahib Kaur Ji, Inc.
National Academic Coalition for Caste Equity
National Asian Pacific American Bar Association
National Association of Social Workers – California Chapter
New Gen Corp.
New Look Threading Salon
Nibbana Healthcare Inc.
Organizing for Action Contra Costa
Pacific Coast Khalsa Diwan Society
Pacific State Hospitality LLC
Paragon Medical Management Group
Paul's Food Fair Inc.
Peace and Freedom Party of California
Periyar Ambedkar Study Circle
Periyar International USA
Port of Subs
Power in Education
Proud Ravidassia Global Organization
Punjabi American Heritage Society – Roseville
R & M Brothers Transport LLC
R&R Management Services Inc.
Radha Swami Rasila Satsang Center, Fresno, CA
Road King Express
RZ Smoke Shop
Sahayaatra International Alliance for Social Justice
Saman Sangh – Om Prakash
San Francisco Bay Area Tamil Mandram
Sanford Heisler Sharp, LLP
Santa Clara County Democratic Party
Santa Monica Democratic Club
SBN Trucking
Seattle Councilmember Ksharma Sawant

Shaheed Baba Deep Singh Khalsa Darbar
Shasta County Citizens Advocating Respect
Sheru Transport Inc.
Shri Guru Ravidass Sabha, Fresno, CA
Shri Guru Ravidass Sabha, New York
Shri Guru Ravidass Temple, Pittsburgh, CA
Shri Guru Ravidass Temple, Rio Linda, CA
Shri Guru Ravidass Temple, Selma, CA
Shri Guru Ravidass Temple, Union City, CA
Sikh Center of Pacific Coast
Sikh Community Center
Sikh Gurdwara – San Jose
Sikh Gurdwara Sahib SF
Sikh Society of Central Contra Costa, Sarab Sanjah Gurdwara
Sikh Temple of Bakersfield
Sikh Temple Turlock
Silicon Valley Gurdwara
Sobha Road Service
Socialist Alternative – Bay Area
Sohi Momi Partnership
Sood Trucking Inc.
South Asia Scholar Activist Collective
South Asian Bar Association of North America
South Asian Coalition to Renew Democracy
South Asian Dalit Adivasi Network, Canada
South Asian Left Activist Movement
South Asian SOAR
Southern Asian Bar Association of North America
SP Baler Trans Inc.
Sri Guru Nanak Sikh Temple
Sri Guru Ravidass Sabha Ontario
Sri Guru Ravidass Society, Calgary
Stop AAPI Hate
Subway # 24692
Subway # 30212
Tech Workers for Caste Equity
Tek-Tax Services
THAKAR Inc.
The Cardiovascular Center
TJ Trucking

TransOne Logistics
United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance
United Way of Northern California
UTC Inc.
V-Day
Voices for Progress
Wasco Dining
Wasco Inn
Wasco Plaza
Workers Strike Back
Over 700 individuals

OPPOSITION: (Verified 8/31/23)

AIM for Seva
Akshaya Patra
Alum Rock Hikers Group
Ambedkar-Phule Network of American Dalits and Bahujans
American Atheists
American Hindu Federation
American Hindus Against Defamation
American Muslim and Multifaith Women's Empowerment Coalition
Americans for Equality
Americans4Hindus
Annapoorna USA Foundation
Arsha Vidya Pitham
Art of Living in Colorado
Arya Samaj Long Island
Asian American Shop Owners Association
Autumnoaks Sai Devotees Association
Balagokulam LoneHill Chapter
Bangladeshi Minorities in USA
Bay Area Bearcats
Bay Area Bengalis
Bay Area Hindus
Bay Area Vaishnav Parivar
Bay Area Youth Vaishnav Parivar
Bharati Tamil Sangam
Bihar UP Jharkhand United of North America
Chinmaya Mission Los Angeles

Chinmaya Mission West
Chinmaya Mission, San Jose
Coalition of Hindus of North America
Concord Housewives Group
Cornerstone Synergy
Cupertino Action & Advocacy
Dalit Samaj of North America
Dalit-Bahujan Solidarity Network
DalitBahujan.org
Dharma Civilization Foundation Inc.
Drishtikone
Durga Temple of VA
Evergreen Desi Group
Evergreen Spiritual Singing Group
Federation of Hindu Associations
Federation of Hindu Mandirs
Federation of Indo-Americans of Northern California
Folsom Bhajan Group
Folsom Desi Ambedkar Civil Rights Group
Folsom Hindu Temple and Cultural Center
Foothills Desi Sports Association
Foundation for India and Indian Diaspora Studies
Fremont Hindu Temple
Fremont Parents Against Discrimination
Global Kashmiri Pandit Diaspora
GoodKarma CLAT
Gujaratis of North America, Inc.
Gurdwara Guru Kalgidhar Sahib
Gurdwara Sant Sagar
HCS Springfield, Ohio
Hero Life Sciences Inc.
Hindu Advocacy Constituent Committee of San Mateo County
Hindu American Foundation
Hindu American Political Action Committee
Hindu Americans of San Diego
Hindu Business Network
Hindu Community Center
Hindu Community Institute
Hindu Cultural Center
Hindu Mandir Executives' Conference

Hindu Society of Inland Empire Inc.
Hindu Speakers Bureau
Hindu Teens Association of Roseville
Hindu Temple Dayton
Hindu Temple of Greater Chicago
Hindu Temple of New Hampshire
HinduACTion
HinduPact
Hindus 4 Dignity
Hindus FOR California
Hindus for Equal Rights
Hindus for Harmony
Hindus in North America
Hindus Not Caste-Oppressors
HSS-USA
HumanSense AI Inc.
India Association of Los Angeles
India Awareness Foundation
India Heritage Foundation
IndiaFacts
Indian Americans California
Indian Americans of Irvine and Orange County
Indic Press
Indo American Social Association LLC
Indo-American Community Federation
Interfaith Dialogue Association
InterfaithShaadi
Iron Horse Health and Wellness Group
ISSO LA
Jain Foundation/India Community Center/Simi Valley Mandir
Jain Society of Greater Cleveland
Jaya Hanuman Temple an Cultural Center
Jewish Institute for Liberal Values
Joy and Assoc. DBA Home America
Kailasa San Diego
Kailasa San Diego Hindu University
Kerala Hindus of Northern California
Khalsa Care Foundation
KnowYourRoots Foundation
Let’s Play Badminton Group

Maharishi Valmik Sabha (USA)
Mandir
McAnally Desi Youth Sports Community
Metropolitan Asian Family Services, Inc.
Minimalist Moms
Minority Parents Association, Livermore
Mothers Against BULLYING
Motwani Jadeja Family Foundation
My Temple
National Alliance of Indo-Canadians
Natomas Friends Cultural Group
Natomas Group of Sacramento
Nithyananda Dhynapeetam Temple and Cultural Center
Nris4Bengal
Organization of Hindu Malayalees
Palo Alto for Religious Freedom
Pleasanton Kannada Balaga
Pragnya Cultural Society
RangAmerica
Reiki Group
Rutgers Hindu Yuva
Samskrita Bharati, Fremont CA Chapter
Samskrita Bharati, San Ramon Chapter
San Ramon Health for Humanity Group
Sanatan Mandir San Bruno
Sankara Eye Foundation USA
Satsang Group
Sewa International, Inc.
Shanti Mandir
Shanti om
Shiva Murgan Temple
Shiva Vishnu Temple
Showing Up for Racial Justice
Shree Swaminarayan Satsang Mandal
Shri Guru Ravidass Temple, Yuba City, CA
Shri Yoga Vedanta Ashram
Sikh Temple Gridley – Live Oak
Sikh Temple Gurdwara Yuba City
Silicon Valley Chinese Association
Silicon Valley Interreligious Council

SMAP Foundation
Social Justice Coalition, Livermore
South Asians for Inclusive Progress
Sri Ashtalakshmi Temple
Sri Saibaba Mandir
Sri Satya Narayana Swamy Devasthanam
StandWithUs
Step2StepUp Inc.
The Hindu Bhajan Samiti
The Khalsa Today
TriDevi Sanatan Mandir Inc.
United Indians Association
United States-India Relationship Council
University of Toronto – Hindu Student's Council
Vaishnav Samaj of Southern California
Vasavi Seva Foundation
Vedic Cultural & Spiritual Center
Vedic Cultural and Spiritual Center of San Diego
Vedic Dharma Samaj/Fremont Hindu Temple
Vedic Education and Devotional Academy
Vedic Sampradaya
Vietnamese American Conservative Association
Vinay Kruttiventi Foundation
Vishwa Hindu Parishad of America – Los Angeles
Washington State and India Trade Relations Action Committee
World Hindu Council of America
Yoga Ascent North America
Yoga Bharati
Over 2,000 individuals

ARGUMENTS IN SUPPORT: According to the co-sponsors of this bill:

> California is home to many South Asians who contribute immensely to local education, corporate, and community organizations. Our California members affirm that caste-oppressed families in the state not only experience significant discrimination based on race but caste as well. Caste may not be as visible as race to the California legislature, but it is a longstanding system of exclusion both in our homelands and within intergovernmental bodies like the UN, the EU, and many others…

> We ask[] that you stand with and create safe harbors for our caste-oppressed neighbors, friends, co-workers, faith leaders, and family members so that they can safely come out and exercise their rights. Without institutional support and protection, caste-oppressed Californians will endure continued discrimination.

ARGUMENTS IN OPPOSITION: According to the Hindu American Foundation:

> Absent a historical or current legal basis to regulate caste in the United States and the lack of an agreed-upon legal, academic or sociological definition, will administrators and the state be asked to rely on India's laws related to caste and impose foreign laws on those working or residing in California? Or will administrators simply treat people of South Asian origin as presumptively guilty because SB-403 states as much? Will only South Asians be forced to answer intrusive questions about or be judged for who they are married to because the state has defined caste as limited to [marriage]? Or perhaps, will South Asians, unlike members of every other racial or ethnic group, be required by the state or policy administrators to identify as "oppressed" or "oppressor"?

GOVERNOR'S VETO MESSAGE:

> This bill would define "ancestry" for purposes of the Fair Employment and Housing Act, the Unruh Act, and the Education Code to include "caste" and other dimensions of ancestry.
>
> In California, we believe everyone deserves to be treated with dignity and respect, no matter who they are, where they come from, who they love, or where they live. That is why California already prohibits discrimination based on sex, race, color, religion, ancestry, national origin, disability, gender identity, sexual orientation, and other characteristics, and state law specifies that these civil rights protections shall be liberally construed. Because discrimination based on caste is already prohibited under these existing categories, this bill is unnecessary.

ASSEMBLY FLOOR: 55-3, 8/28/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Connolly, Mike Fong, Friedman, Gabriel, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson,

Jones-Sawyer, Kalra, Lee, Lowenthal, Maienschein, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Ramos, Reyes, Luz Rivas, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NOES: Megan Dahle, Vince Fong, Hoover

NO VOTE RECORDED: Alanis, Berman, Boerner, Cervantes, Chen, Davies, Dixon, Essayli, Flora, Gallagher, Garcia, Lackey, Low, Mathis, McCarty, Jim Patterson, Joe Patterson, Quirk-Silva, Rendon, Rodriguez, Ta, Wallis

Prepared by: Allison Whitt Meredith / JUD. / (916) 651-4113
10/19/23 11:06:03

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

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VETO

Bill No: SB 420
Author: Becker (D), et al.
Amended: 9/7/23
Vote: 27

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

SENATE FLOOR: 40-0, 9/14/23
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: 78-1, 9/11/23 - See last page for vote

SUBJECT: Electricity: electrical transmission facility projects

SOURCE: American Clean Power Association

DIGEST: This bill exempts, among its provisions, construction of a new electrical transmission facility, or other modification, including electrical 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.

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 Section 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 Section 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 Section 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 one to two 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 California Energy Commission (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 exempted extensions, expansions, upgrades, or other modifications of transmission projects from the more involved CPCN review and approval process. Instead, SB 529 authorized these projects to undergo the more streamlined and expedient PTC review and approval process at the CPUC. The bill required 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 required 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 this 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 Section 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 this bill, including electric utilities, suggest there may be much to be gained by the proposed changes.

Related/Prior Legislation

AB 914 (Friedman, 2023) would have established 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 Appropriations Committee.

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 1) Environmental Leadership Development Projects (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, Chapter 390, Statutes of 2023) required 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 required the state energy agencies to jointly develop an electrical transmission infrastructure development guidebook.

SB 619 (Padilla, 2023) would have authorized 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 was vetoed.

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) 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 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 Appropriations Committee, 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 10/13/23)

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 10/13/23)

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.

GOVERNOR'S VETO MESSAGE:

> This bill would revise the California Public Utilities Commission (CPUC) environmental permitting authority over specific types of electric transmission projects, which would largely reassign this responsibility to local agencies.
>
> While I agree with the author's intent to accelerate the development of new and needed electric transmission projects to move electricity from clean energy resources to consumers, this bill compounds existing permitting complexity for these projects by devolving permitting authority of mid-sized electric transmission projects from a single state agency to local agencies.
>
> Building out the electric transmission system is critical for delivering clean electricity to customers from our growing portfolio of zero-carbon resources. I welcome further partnership with the Legislature to develop targeted policies that would accelerate the development of this needed electric infrastructure. Last year and this year, I signed a number of bills that advance our electric infrastructure needs, helping us progress towards our decarbonization goals. We should build on these efforts thoughtfully. To that end, I'm directing my Administration to work through the infrastructure Strike Team established by Executive Order N-8-23 to do just this.

I look forward to advancing these efforts through the Strike Team to avoid any unintended consequences that will further complicate statewide electric transmission planning and delay permitting for these projects.

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

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10/25/23 10:52:41

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

SENATE RULES COMMITTEE SB 429
Office of Senate Floor Analyses
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VETO

Bill No: SB 429
Author: Bradford (D)
Amended: 9/7/23
Vote: 27

PRIOR 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

SENATE FLOOR: 28-2, 9/14/23
AYES: Allen, Alvarado-Gil, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Dahle, Dodd, Eggman, Glazer, Grove, Hurtado, Jones, Laird, Menjivar, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Umberg, Wilk
NOES: Archuleta, Cortese
NO VOTE RECORDED: Durazo, Gonzalez, Limón, McGuire, Min, Skinner, Smallwood-Cuevas, Stern, Wahab, Wiener

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.

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 miles, 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 10/13/23)

California Chamber of Commerce
Silicon Valley Leadership Group
TechNet
Several individual rideshare drivers

OPPOSITION: (Verified 10/13/23)

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, AFL-CIO 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.

GOVERNOR'S VETO MESSAGE:

> This bill codifies vehicle inspection requirements for transportation network companies (TNCs) and requires TNCs to compensate certain drivers for their time spent completing a vehicle inspection. The bill also specifically authorized TNC vehicle inspections to be completed remotely or virtually.
>
> While I appreciate the intent of the author to make it easier for drivers to comply with the existing vehicle inspection requirements, this bill may weaken these requirements, which are purposefully designed to protect public, driver and passenger safety.
>
> Last year I vetoed legislation that would have authorized similar provisions.

At that time, I encouraged the author of that bill to work with the CPUC to clearly identify and address any issues or safety improvements. I continue to believe that is the most appropriate approach for addressing these types of safety matters.

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
10/19/23 11:12:57

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

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VETO

Bill No: SB 433
Author: Cortese (D)
Amended: 9/6/23
Vote: 27

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 4/12/23
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas
NOES: Wilk

SENATE EDUCATION COMMITTEE: 4-2, 4/19/23
AYES: Newman, Cortese, McGuire, Smallwood-Cuevas
NOES: Ochoa Bogh, Glazer
NO VOTE RECORDED: Wilk

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

SENATE FLOOR: 28-11, 5/24/23
AYES: Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, 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, Dodd, Glazer, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Allen

SENATE FLOOR: 28-10, 9/12/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, 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: Caballero, Dodd

ASSEMBLY FLOOR: 61-17, 9/11/23 - See last page for vote

SUBJECT: Classified school and community college employees: disciplinary hearings: appeals: impartial third-party hearing officers

SOURCE: California School Employees Association

DIGEST: This bill makes changes to the K-12 school and community college (CCC) disciplinary process for classified employees and principally allows a school or community college employee, excluding a peace officer, facing discipline from the employer to appeal that disciplinary action to an impartial third-party hearing officer paid by the employer and jointly selected by the employer and the employee or the employee's union unless the union and the employer have entered into a memorandum of understanding (MOU) providing an alternative method of appealing disciplinary action.

ANALYSIS:

Existing law:

1) Requires that each person employed by a county superintendent of schools in a position not requiring certification qualifications and whose salary the county school service fund pays, to be employed in accordance with rules and regulations governing disciplinary proceedings that apply to classified employees of a K-12 or CCC district. (ED § 1311)

2) Authorizes K-12 and CCC classified employees to elect a merit (i.e., civil service) system for their district whereby the district's board establishes a personnel commission and personnel director to administer personnel rules established in statute. (ED §§ 45220 et seq. and §§ 88050 et seq.)

3) Establishes rules and regulations governing all K-12 and CCC classified personnel including those in non-merit districts (i.e., where a district has not established a merit system and the governing board retains direct decision authority over classified personnel issues). Key provisions related to the disciplinary process for classified employees do the following:

    a) Require K-12 and CCC district boards to prescribe written rules and regulations governing classified personnel management that must be printed and made available to classified service employees whom the district

designates as permanent after serving a probationary period not to exceed the longer of six months or 130 days of paid service, or one-year for peace officer employees, as specified.

b) Provide that a K-12 or CCC district may discipline their permanent classified employees only for cause as prescribed by board rule or regulation but also provide that the board's determination of sufficiency of the cause for disciplinary action is conclusive.

c) Require a district board to adopt rules of procedure for disciplinary proceedings that provide for the employees' due process rights, as specified; place the evidentiary burden of proof on the board; and void any contrary rule or regulation.

d) Prohibit a district from imposing disciplinary action for any cause that arose prior to the employee attaining permanent status, or for any cause that arose more than two years before the district filed the notice of cause, unless the employee concealed or failed to disclose the cause when the employee reasonably should have disclosed the facts to the district.

e) Clarify that a board continues to have authority to delegate disciplinary determinations to an impartial third party hearing officer, as specified, pursuant to a bargaining agreement but must retain its authority to review the hearing officer's determination pursuant to Civil Procedure Code Section 1286.2.

f) Require a board to delegate cases involving disciplinary action against an employee for allegations of egregious conduct involving a minor, to an administrative law judge, as specified, and make the judge's ruling binding on all parties.

g) Prohibit the board, if the employee timely requests a hearing, from suspending the employee without pay or with reduced pay or from dismissing the employee before the board renders its decision at a hearing on the charges.

    i) However, the board may do so if an impartial third-party hearing officer finds at a preliminary (Skelly) hearing that the district demonstrated by a preponderance of the evidence that the employee engaged in criminal or risky misconduct, as specified.

    ii) If the board uses an impartial third-party hearing officer, as specified, to conduct the hearing on the charges, the board may suspend the

employee's pay, before the determination on the charges, 30 days after the employee requested the hearing.

h) Provide that provisions involving classified employee discipline only apply to districts that have not incorporated the merit system (i.e., have not adopted a personnel commission, as specified).
(ED §§ 45113 et seq. and §§ 88013 et seq.)

4) Requires a notice of disciplinary action to contain: a statement in ordinary and concise language of the specific acts and omissions upon which the disciplinary action is based; a statement of the cause of the action to be taken; and, if there is a claim that an employee has violated a rule or regulation of the employer, the rule or regulation. The provision also describes when a notice is insufficient and the consequences when a notice violates the provision's requirements. (ED § 45116 and § 88016)

5) Establishes the Education Employer-Employee Relations Act (EERA), which provides a statutory framework under California law governing employer-employee relations within the public schools and community college system and authorizing collective bargaining between school employers and their school employees, as specified. (Government Code (GC) § 3540 et seq.)

6) Establishes the Public Employment Relations Board (PERB), a quasi-judicial administrative agency charged with resolving disputes and enforcing the statutory duties and rights of public agency employers and employee organizations, but provides the City and County of Los Angeles a local alternative to PERB oversight. (GC §3541 et seq.)

This bill:

1) Provides that relating to nonmerit K-12 school districts:

a) Authorizes a permanent classified school district employee, excluding a peace officer, to appeal a disciplinary action to an impartial third-party hearing officer paid, by the school district, and jointly selected by the district and the employee or the employee's union from a list of seven arbitrators from the California State Mediation and Conciliation Service (CSMCS), unless the union and the district enter into an agreement that provides for an alternative method of disciplinary appeal or selection of an impartial third-party hearing officer. The impartial third-party hearing officer must preside over the hearing and provide a determination as to the outcome of the disciplinary action.

b) Requires an impartial third-party hearing officer to delegate its authority to a judge to determine whether sufficient cause exists for disciplinary action against a classified employee involving allegations of egregious misconduct and involving a minor. The ruling of the judge must be binding upon all parties.

c) Defines "disciplinary action" to mean dismissals and suspensions of classified employees and demotions of nonsupervisory classified employees, but does not include verbal or written reprimands or warnings, and "hearing officer" to mean an arbitrator selected by striking from a list of seven arbitrators to be obtained by the parties from the CSMCS, unless the parties agree upon another method of selecting a hearing officer.

d) Increases the timeframe in which a hearing relating to disciplinary charges may be requested by an employee from not less than five days, to 30 days, after service of the notice to the employee.

2) Provides that relating to nonmerit community college districts:

a) Provides that if a classified community college district employee requests a hearing on charges against the employee, an impartial third-party hearing officer, paid for by the district and jointly selected by the district and the employee or the employee's union must preside over the hearing and provide a determination as to the outcome of the disciplinary action.

b) Provides that the impartial third-party hearing officer's determination must be subject to judicial review on petition of the governing board or the employee, and provides that the court review and exercise its independent judgment on the evidence. The proceeding must be set for a hearing at the earliest possible date and take precedence over all other cases, except older matters of the same character and matters to which the law gives special precedence.

c) Applies these provisions to classified employees employed by a JPA established by one or more community college districts.

d) Provides that if these provisions conflict with those of a collective bargaining agreement, as provided, before January 1, 2024, these provisions do not apply to a community college district until the collective bargaining agreement is expired or renewed.

e) Defines "disciplinary action" to not include verbal or written reprimands or warnings, and "hearing officer" to mean an arbitrator selected by striking

from a list of seven arbitrators to be obtained by the parties from the CSMCS, unless the parties agree upon another method of selecting a hearing officer.

3) Makes other changes for these purposes, and includes provisions relating to reimbursement, if the Commission on State Mandates determines that costs are mandated by the state.

Related/Prior Legislation

AB 472 (Wicks, 2023) requires school and community college districts to pay a classified employee upon returning to service for the district for the period of an involuntary leave of absence after the proceedings of a charge of a criminal offense, investigation, or job-related administrative determination are found in favor of the employee. The bill is in engrossing and enrollment.

AB 2413 (Carrillo, Chapter 913, Statutes of 2022) prohibited school and community college districts from suspending, demoting, or dismissing without pay a permanent, classified employee who timely requests a hearing on the charges against the employee before a decision is rendered on the matter.

AB 275 (Medina, Chapter 556, Statutes of 2021) reduced the probation period for classified community college employees in non-merit districts from one year to the longer of 6 months or 130 days of paid service.

AB 486 (Committee on Education, Chapter 666, Statutes of 2021), the annual K-12 education policy omnibus bill, included changes under ED Section 45113 regarding probation periods for school peace officer and public safety dispatchers.

AB 2609 (Medina, 2020) was substantially the same as AB 275 (Medina, 2021). The Assembly Higher Education Committee held the bill.

AB 1353 (Wick, Chapter 542, Statutes of 2019) reduced the maximum length of the probationary period for K-12 classified school employees working in non-merit based districts from one year to a period not exceeding six months or 130 days of paid service, whichever is longer.

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

According to the Assembly Appropriations Committee, this bill would result in ongoing Proposition 98 General Fund costs, of an unknown, but potentially significant amount, to nonmerit districts to pay for a third-party hearing officer to settle disciplinary appeal hearings. Annual costs would depend on the number and

scope of such proceedings each year. The costs associated with a single hearing can exceed $10,000 for a complicated matter.

The state would need to reimburse these costs to school districts and community college districts, if the Commission on State Mandates determines the bill's requirements to be a reimbursable state mandate.

SUPPORT: (Verified 10/12/23)

California School Employees Association (source)
American Federation of State, County, and Municipal Employees
California Federation of Teachers
California Labor Federation
California State Council of Service Employees International Union
California Teachers Association

OPPOSITION: (Verified 10/12/23)

Association of California Community College Administrators
Association of California School Administrators
California Association of School Business Officials
California School Boards Association
Central Valley Education Coalition
Kern County Office of Education
Kern County Superintendent of Schools Office
Miracosta Community College District
Orange County Department of Education
Peace Officers Research Association of California
Riverside County Office of Education
School Employers Association of California
Small School Districts Association

ARGUMENTS IN SUPPORT: According to the sponsor, "Discipline appeal hearings for classified school employees are normally decided by school district or community college governing boards. These boards are typically the same body that voted on the initial disciplinary decision. It is unfair for the same board that took the initial vote to discipline an employee to also be the appellate body."

ARGUMENTS IN OPPOSITION: According to the California School Boards Association, "This bill would delete a school district's authority to make the ultimate disciplinary action against a classified staff person and place it into the hands of an impartial third-party hearing officers to determine whether sufficient

cause exists, unless the staff person is a licensed peace officer. It would also require school districts to fund the costs associated with obtaining a disciplinary ruling for cause from an impartial third-party hearing officer and jointly selected by the district and union.

“Fundamentally, this measure removes all authority of a duly elected school board to render personnel decision over the classified staff of the district. This is contrary to the spirit of local control and removes yet another layer of local school board governance authority and delegates that authority to an unelected entity.”

GOVERNOR'S VETO MESSAGE:

> This bill requires an impartial third-party hearing officer to hear disciplinary appeals of permanent classified personnel at school or community college nonmerit districts. This bill also requires the district to pay for the third-party hearing officer, and for the third-party hearing officer to be jointly selected by the district and the classified employee from a list of arbitrators, unless the parties agree otherwise.
>
> Under the status quo for certificated employees, the district absorbs the full cost of appeals hearings if the employee prevails. If it is determined that the certificated employee should be dismissed or suspended, the cost is shared equally with the State and the district. This bill for classified employees requires districts to bear the full costs of a disciplinary hearing before an arbitrator, no matter the outcome. This could increase the number of appeals and would create significant costs for the State and must be considered in the annual budget in the context of all state funding priorities.
>
> In partnership with the Legislature, we enacted a budget that closed a shortfall of more than $30 billion through balanced solutions that avoided deep program cuts and protected education, health care, climate, public safety, and social service programs that are relied on by millions of Californians. This year, however, the Legislature sent me bills outside of this budget process that, if all enacted, would add nearly $19 billion of unaccounted costs in the budget, of which $11 billion would be ongoing.
>
> With our state facing continuing economic risk and revenue uncertainty, it is important to remain disciplined when considering bills with significant fiscal implications, such as this measure.

ASSEMBLY FLOOR: 61-17, 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, 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, Ting, Valencia, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis

NO VOTE RECORDED: Lackey, Soria

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556
10/19/23 10:40:49

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

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VETO

Bill No: SB 435
Author: Gonzalez (D), et al.
Amended: 9/1/23
Vote: 27

SENATE GOVERNMENTAL ORG. COMMITTEE: 10-0, 3/28/23
AYES: Dodd, Wilk, Alvarado-Gil, Ashby, Bradford, Glazer, Nguyen, Padilla, Roth, Rubio
NO VOTE RECORDED: Archuleta, Jones, Ochoa Bogh, Portantino, Seyarto

SENATE JUDICIARY COMMITTEE: 8-0, 4/11/23
AYES: Umberg, Wilk, Allen, Ashby, Laird, McGuire, Min, Wiener
NO VOTE RECORDED: Durazo, Niello, Stern

SENATE APPROPRIATIONS COMMITTEE: 5-0, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NO VOTE RECORDED: Jones, Seyarto

SENATE FLOOR: 35-0, 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, Niello, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Dahle, Grove, Jones, Ochoa Bogh, Seyarto

SENATE FLOOR: 34-0, 9/11/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, 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: Alvarado-Gil, Caballero, Dahle, Grove, Jones, Seyarto

ASSEMBLY FLOOR: 79-0, 9/7/23 - See last page for vote

SUBJECT: Collection of demographic data: CalFresh program and State Department of Public Health

SOURCE: Centro Binacional Para El Desarrollo Indígena Oaxaqueno
Latino Coalition for a Healthy California
Mixteco/Indigena Community Organizer Project

DIGEST: This bill requires the State Department of Social Services (DSS), in the course of collecting demographic data as to the ancestry or ethnic origin of California residents for any report on the CalFresh program, to use separate collection categories and tabulations for each major Latino group, Mesoamerican Indigenous nation, and Mesoamerican Indigenous language, as specified.

ANALYSIS:

Existing law:

1) Requires any state agency, board, or commission that directly or by contract collects demographic data as to the ancestry or ethnic origin of Californians to use separate collection categories and tabulations for specified Asian Groups and Pacific Islander groups.

2) Requires a state agency, board, or commission to include data on specified collection categories and tabulations in every demographic report on ancestry or ethnic origins of California residents that it publishes or releases.

3) Requires the Department of Industrial Relations (DIR) and the Department of Fair Employment and Housing (DFEH) to use additional separate collection categories and other tabulations for major Asian groups and Native Hawaiian and other Pacific Islander groups.

4) Establishes the California Department of Public Health (CDPH), headed by the State Public Health Officer, and sets forth its powers and duties, including the administration of provisions relating to the prevention and control of communicable disease.

5) Requires CDPH, on or after July 1, 2022, to the extent funding is appropriated, when collecting demographic data as to the ancestry or ethnic origin of persons for a report that includes rates for major diseases, leading causes of death per

demographic, subcategories for leading causes of death in California overall, pregnancy rates, or housing numbers.

6) Requires that a statute that limits the right to access to the meetings of public bodies or the writing of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

7) Provides, under federal law, for the Supplemental Nutrition Assistance Program, known as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county.

8) Requires, DSS to publicly report specified information, including certain data specific to students enrolled in an institution of higher learning who receive CalFresh benefits, as specified.

This bill:

1) Requires DSS, in the course of collecting demographic data as to the ancestry or ethnic origin of California residents for any report on the CalFresh program, to use separate collection categories that offer respondents the option of selecting one or more ethnic or racial designations or languages and tabulations for all of the following:

   a) Each major Latino group, including, but not limited to, Mexican, Guatemalan, Salvadoran,Honduran, Nicaraguan, Costa Rican, Panamanian, Belizean, Puerto Rican, Dominican, Cuban, Argentinean, Bolivian, Brazilian, Chilean, Colombian, Ecuadorian, Guyanese, Paraguayan, Peruvian, Surinamese, Uruguyan, and Venezuelan.
   b) Each major Mesoamerican Indigenous nation, including, but not limited to, Maya, Aztec, Mixteco, Zapoteco, and Triqui.
   c) Each major Mesoamerican Indigenous language group, including, but not limited to, Zapoteco, Chinanteco, K'iche, Nahuatl, Mixteco, Purépecha, Tzotzil, Mayan, Amuzgo, Ayuujk (Mixe), Mam, Popti', Q'anjob'al, Triqui, and Chatino.

2) Defines "department" to mean DSS whenever collecting demographic data as to the ancestry or ethnic origin of California residents for any report on the CalFresh program.

3) Requires the data collected pursuant to this bill to be included in every demographic report on ancestry or ethnic origins of Californians by the department published or released on or after July 1, 2027.

4) Requires, to the extent funding is specifically appropriated, on or after January 1, 2026, the State Department of Public Health to collect and tabulate data for the groups described above whenever collecting demographic data as to the ancestry or ethnic origin of California residents for a report that includes rates for major diseases, leading causes of death in California overall, pregnancy, housing, and mental health rates.

5) Requires, on or after July 1, 2027, and annually thereafter, the department to report to the Legislature both of the following:

   a) The data collected pursuant to the provisions of this bill.
   b) The methods used to collect the data.

6) Requires the department to make the data available to the public in accordance with state and federal law, including posting the data on the internet website of the department, except for personal identifying information, which shall be deemed confidential and shall not be disclosed.

7) Prohibits the department from reporting demographic data that would permit identification of individuals.

8) Provides that the department shall not report demographic data that would result in statistical unreliability.

9) Requires the department, 18 months after a decennial United States Census is released to the public, to update the department's data collection to reflect the additional Latino groups, major specific Mesoamerican Indigenous nations, and major Mesoamerican groups as they are reported by the United States Census Bureau.

Background

Purpose of this Bill. According to the author's office, "Latinos make up 40% of California's population. However, within the Latino community there are several ethnic subgroups that have diverse health outcomes. Within the state, instead of

looking at these subgroups individually and understanding the challenges they each face, they are viewed as a monolith, which can lead to policymakers and researchers relying on less detailed information that may be collected inconsistently. An example that illustrates the need for more detailed information is current research that has shown that Puerto Ricans have the highest prevalence of asthma in the US mainland at 16% whereas Latinos of Mexican origin have the lowest prevalence of asthmas at 5.4%. This highlights how health data collected by the State isn't necessarily reflective of the diversity of various subgroups within Latino populations and ignores the health trends within those subgroups."

Data Disaggregation. Disaggregation of data refers to the breaking down of information into smaller units or variable for the purpose of gaining a deeper understanding of trends and patterns. Proponents of data disaggregation argue that when data is disaggregated, it provides a "full picture" and enhances the understanding of a situation. In addition, proponents argue that policymakers are better equipped to understand the challenges and issues of particular communities and thus better able to respond to those challenges.

According to the author's office, "data disaggregation is imperative for discovering disparities among the Latino community and addressing them effectively. During the height of the COVID-19 pandemic, Indigenous communities could not access timely and reliable information to access vaccines in California and suffered a higher death rate as a result. SB 435 takes the critical and necessary first step to uncover trends and potential disparities that are often hidden in aggregated numbers for Latinos and Mesoamerican nations by requiring public health state agencies, to collect and disaggregate date for specified groups."

Related/Prior Legislation

AB 1358 (Muratsuchi, 2022) would have expanded the requirement for certain state agencies to collect disaggregated ethnicity data and would have standardized the collection and tabulation of demographic information by local health officers and health care providers. (Held in the Senate Appropriations Suspense File)

AB 1726 (Bonta, Chapter 607, Statutes of 2016) required CDPH to collect demographic data related to each major Asian and Pacific Islander group, as specified.

AB 176 (Bonta, 2015) would have added requirement for the collection of demographic data, by state's public segments of postsecondary education and the

Department of Managed Health Care pertaining to collection and tabulation categories for Native Hawaiian, Asian, and Pacific Islander groups. (Vetoed by Governor Brown)

AB 1088 (Eng, Chapter 689, Statutes of 2011) required certain state agencies to collect and tabulate data for additional major Asian groups, as listed, in order to better reflect the diversity of Asian American, Hawaiian and Pacific islander Communities in California.

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

According to the Assembly Appropriations Committee, DSS estimates one-time General Fund (GF) automation costs of $435,600 to update its IT data collection systems. Additional one-time costs, of an unknown amount, may be incurred to update forms and other processes.

DSS estimates ongoing GF costs of $199,000 in fiscal year (FY) 2023-24, and $193,000 annually thereafter, for one staff position to implement the demographic data collection changes in balance with the California Health and Human Services Agency's de-identification risk guidelines across all reporting, to repeatedly review as demographic shifts occur, and to review DSS products to ensure adherence to those guidelines.

In addition, potential costs of an unknown amount to DHCS to the extent the MEDS system, which produces and stores CalFresh demographic data, requires updates as a result of the new data collection requirements in this bill.

Finally, CDPH estimates GF costs of approximately $2.1 million in FY 2024-25, $1.4 million in FY 2025-26, and $900,000 annually thereafter, for five permanent staff positions, three two-year limited-term positions, and contracting services. CDPH indicates it does not have the capacity or technical capabilities to collect the data required by this bill. Funding will be necessary to reevaluate and reprogram existing systems, registries and reports published by CDPH and to support the collection and publication of new data required by this bill.

SUPPORT: (Verified 10/11/23)

Centro Binacional Para El Desarrollo Indígena Oaxaqueno (co-source)
Latino Coalition for a Healthy California (co-source)
Mixteco/Indigena Community Organizer Project (co-source)

#onecontracosta Coalition
AARP
Access Reproductive Justice
Alliance for a Better Community
Altamed Health Services Corporation
API Equality-la
Asian Americans Advancing Justice-Southern California
Asian Pacific Partners for Empowerment, Advocacy and Leadership
Asociacion De Migrantes Guatemaltecos, LA
Berkeley Health Initiative of the Americas
Buen Vecino
California Black Health Network
California Dental Association
California Food and Farming Network
California Health+Advocates, Subsidiary of the California Primary Care Association
California Institute for Rural Studies
California Latinas for Reproductive Justice
California LGBTQ Health and Human Services Network
California Pan - Ethnic Health Network
California Rural Legal Assistance Foundation, Inc.
California State Council of Service Employees International Union
Casa Del Diabetico Gualan
Center for Asian Americans in Action
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Central Valley Immigrant Integration Collaborative
Ceres Community Project
Children Now
Chinatown Service Center
Coalition for Humane Immigrant Rights
Communities United for Restorative Youth Justice
Community Health Councils
Comunidades Indigenas En Liderazgo
Diligencias
Disability Rights California
Equality California
Food Empowerment Project
Fund for Santa Barbara
Grace Institute - End Child Poverty in Ca

Having Our Say Coalition
Health Access California
Health Education Council
Hispanas Organized for Political Equality
Interface Children & Family Services
Justice in Aging
Kids in Need of Defense
Leaders LA
Maternal and Child Health Access
Multi Ethnic Collaborative of Community Agencies
National Health Law Program
Nourish California
Pesticide Action Network North America
Public Health Advocates
Raizes Collective
Regional Asthma Management and Prevention
Roots of Change
Sacramento Native American Health Center
San Francisco Aids Foundation
San Ysidro Health
Sistahfriend's Womens Counseling and Eldercare Management
Southeast Asia Resource Action Center
Thai Community Development Center
The Children's Partnership
The Unity Council
Training in Early Abortion for Comprehensive Health Care
Training Occupational Development Educating Communities
UCLA, Latino Policy & Politics Institute
Union De Guatemaltecos Emigrantes
University of California Global Health Institute, Center for Gender and Health Justice and UC Santa Barbara Health Equity Initiatives
Vision Y Compromiso
Western Center on Law & Poverty

OPPOSITION: (Verified 10/11/23)

None received

ARGUMENTS IN SUPPORT: According to the Latino Coalition for a Healthy California, "Latino subgroups and Meso-American Indigenous Nations have specific needs, such as indigenous language access, to obtain quality and reliable

information and services from our state agencies and programs. During the height of the COVID-19 pandemic, indigenous communities could not access timely and reliable information to access vaccines in California and suffered higher deaths as a result. Without disaggregated data, policymakers and researchers must rely on less detailed data released by state agencies or local data that may be collected inconsistently in different jurisdictions, leading to health and related inequities."

GOVERNOR'S VETO MESSAGE:

> This bill would require the CalFresh program, within the California Department of Social Services (CDSS), and the California Department of Public Health (CDPH) to use separate data collection categories for specified Latino groups, Mesoamerican Indigenous nations, and Mesoamerican Indigenous language groups when collecting and reporting demographic data.
>
> Providing more detailed health and demographic information for Latino groups and Mesoamerican Indigenous nations is important to inform our services and supports and to help identify disparities. To this end, my Administration is actively monitoring and reviewing the United States Office of Management and Budget's (OMB) update to federal standards for collection and reporting of race and ethnicity information, and looks forward to engaging stakeholders in this effort. California is required to submit data to the federal government using these federal standards, and programs that receive federal funding must also use these standards. As such, implementing a different framework for data collection in California prior to the release of updated federal standards is premature.

ASSEMBLY FLOOR: 79-0, 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, 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

NO VOTE RECORDED: Essayli

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
10/19/23 11:12:57

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

SENATE RULES COMMITTEE SB 470
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VETO

Bill No: SB 470
Author: Alvarado-Gil (D)
Amended: 9/1/23
Vote: 27

SENATE NATURAL RES. & WATER COMMITTEE: 10-0, 4/25/23
AYES: Min, Seyarto, Allen, Dahle, Eggman, Grove, Hurtado, Laird, Limón, Padilla
NO VOTE RECORDED: Stern

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

SENATE FLOOR: 39-0, 9/11/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 79-0, 9/7/23 - See last page for vote

SUBJECT: Water: Urban Water Community Drought Relief program: Small Community Drought Relief program: high fire hazard and very high fire hazard severity zones

SOURCE: Author

DIGEST: This bill codifies the Urban Water Community Drought Relief program and the Small Community Drought Relief program at the Department of Water Resources (DWR). Further, this bill authorizes these programs, upon appropriation, to fund projects that provide benefits in addition to drought relief, including projects that reduce the risk of wildfires for communities through water delivery system improvements for fire suppression purposes in high- and very high-fire hazard severity zones, among other things.

ANALYSIS:

Existing law:

1) Establishes DWR in the California Natural Resources Agency (CNRA) under the control of the director. *Water Code §120.*

2) Authorizes, through January 1, 2024, an implementing agency, subject to an appropriation in the annual Budget Act or another statute for these purposes to make grants and direct expenditures, including to or on behalf of affected public and private entities, for interim or immediate relief in response to conditions arising from a drought scenario, as specified. *Water Code §§13198.2, 13198.4, and 13198.8.*

3) Directs a city or county, upon the next revision of the housing element of a general plan on or after January 1, 2014, to include a set of feasible implementation measures designed to carry out specified goals, policies, and objectives, including designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including water supplies for structural fire suppression. *Government Code §65302.*

This bill codifies the Urban Water Community Drought Relief program and the Small Community Drought Relief program at DWR. Specifically, this bill:

1) Establishes the Urban Water Community Drought Relief program and the Small Community Drought Relief program in DWR to provide grants for interim or immediate drought relief, as specified.

2) Provides that a project funded by the Urban Water Community Drought Relief program shall benefit a community supplied by an urban water supplier whereas

the Small Community Drought Relief program shall benefit a community not supplied by an urban water supplier, as defined.

3) Authorizes the Urban Water Community Drought Relief program and the Small Community Drought Relief program, upon appropriation for these purposes after the operative date of this bill, to fund projects that provide benefits in addition to drought relief, including, among others, projects that reduce the risk of wildfire for entire neighborhoods and communities through water delivery system improvements for fire suppression purposes in high fire hazard severity zone communities or very high fire hazard severity zone communities, as specified.

4) Makes a series of findings and declarations.

Background

Small water suppliers and rural communities. Pursuant to AB 1668 (Friedman, Chapter 15, Statutes of 2018), DWR issued *Small Water Systems and Rural Communities Drought and Water Shortage Contingency Planning and Risk Assessment* in 2021. This report, released in two parts, identified small water systems and rural communities at risk of drought and water shortage vulnerability (Part II) and made recommendations for improving drought contingency planning for those areas (Part I).

DWR examined the relative risk of drought and water shortage for 2,419 small water suppliers in the report. The results show that a vast majority of the state's counties (47 of the 58 counties) have small water suppliers in the top 10 percent of risk scores (240 suppliers) for water shortage. Of those in the top 10 percent, over half (61 percent or 149 suppliers) are located in high or very high fire hazard severity zones. In other words, there are many small and rural communities across the state that are at high risk of running out of water during a drought or other disaster. Also, many communities located in areas with a high risk for wildfire are at high risk of water shortage, which could impact their capacity to suppress fires when they occur.

The report recommended that the state support small community water systems to install additional infrastructure to improve drought and water shortage preparedness and response. The report noted that most water systems under 1,000 connections have difficulty ensuring water supplies during natural disaster events, regardless of the development of planning materials, due to their inherent lack of economies of scale to finance needed infrastructure improvements and the high

cost of emergency response activities. The minimum infrastructure resiliency measures to help ensure sustainable water supplies include, among others, having source and distribution system capacity to meet wildfire flow requirements.

Urban Community Drought Relief Program. This program, established via the Budget Act of 2021, offers grant funding for urban water suppliers, among others, for drought relief, including to provide water to communities that face the loss or contamination of their water supplies, address immediate impacts on human health and safety, secure the future of California's water supply, and protect fish and wildlife resources. Eligible project types include projects that support immediate drought response, installation of temporary or permanent community water tanks, emergency water interties, new wells or rehabilitation of existing wells, and construction or installation of a permanent connection to adjacent water systems. An urban water supplier is defined as a supplier, either publicly or privately owned, that provides water for municipal purposes, either directly or indirectly, to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually.

The Budget Act of 2021 provided $310 million for this program. *Section 80, Chapter 240, Statutes of 2021; Section 25, Chapter 44, Statutes of 2022; and Section 35, Chapter 574, Statutes of 2022.*

Small Community Drought Relief Program. This program, established via the Budget Act of 2021, provides immediate and near-term financial and technical support to help small communities survive this and future droughts. The program aims to implement needed resiliency measures and infrastructure improvements for small water suppliers and rural communities. The specific objectives are to implement projects that provide reliable water supply sources, improve water system storage, replace aging and leaking pipelines, and provide alternative power sources for operation (emergency generators). Eligible project types include the construction or installation of permanent infrastructure, including connections to adjacent water systems, installation of water system pipelines, installation of booster pump stations, installation of water intake works, installation of water storage tanks, and construction of other projects. Projects must benefit communities not supplied by an urban water supplier, as defined in the Urban Community Drought Relief Program.

The Budget Act of 2021 provided $300 million for this program. *Section 80, Chapter 240, Statutes of 2021; and Section 25, Chapter 44, Statutes of 2022.*

Comments

According to the author, "Communities in the Tahoe Basin serve as a prime example, where most of the water systems were developed from 1930-1950 to serve seasonal cabins. Significant portions of the Basin are still served by a patchwork of small, geographically isolated, and undersized water systems that lack the capacity and infrastructure to combat wildfires. In many rural communities, water utility infrastructure projects are necessary to improve fire hydrant coverage, upsize water distribution pipelines, and increase storage capacity." This bill authorizes grant funding to upgrade these water systems to support fire suppression in communities at risk of wildfire.

Related/Prior Legislation

AB 1567 (Garcia, 2023) enacts a new bond act, which if approved by the voters, would authorize the issuance of over $15 billion in bonds for various purposes, including $325 million for a prehazard mitigation grant program that may fund, among other eligible project types, grants for water delivery system improvements for fire suppression purposes for specified communities. The bill is pending in the Senate Natural Resources and Water Committee.

AB 148 (Committee on Budget, Chapter 115, Statutes of 2021) provided for drought relief by authorizing specified state agencies to make grants and direct expenditures to provide (1) interim or immediate relief in response to conditions arising from a drought scenario to address immediate impacts on human health and safety and fish and wildlife resources and (2) water to persons or communities that lose or are threatened with the loss or contamination of water supplies.

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

According to the Assembly Appropriations Committee, cost pressure of an unknown but potentially significant amount, possibly in the tens to hundreds of millions of dollars (based on previous funding levels – see below), to provide additional funding to the Urban Water Community Drought Relief and Small Community Drought Relief programs at DWR for projects that, among other things, provide interim or immediate drought relief; reduce the risk of wildfire for neighborhoods and communities through water delivery system improvements in high and very high fire hazard severity zone communities; provide water deliveries such as hauled water, temporary community water tanks, bottled water, or water vending machines; construct infrastructure such as emergency water interties, drilling or rehabilitating new wells, or the installation of permanent water infrastructure; rescue, protect, and relocate fish and wildlife; and support water

conservation activities, including education, fixture replacement incentives and rebate programs, and turf replacement with drought tolerant landscaping (General Fund or special fund).

SUPPORT: (Verified 10/10/23)

Association of California Water Agencies
California Fire Chiefs Association
California Special Districts Association
California Tahoe Alliance
City of Santa Rosa
City of South Lake Tahoe
County of El Dorado
County of Placer
El Dorado Water Agency
Fire Districts Association of California
Humboldt Redwood Company
Lake Tahoe Community College
League to Save Lake Tahoe
Mendocino Redwood Company
Mountain Counties Water Resources Association
North Tahoe Public Utility District
South Tahoe Public Utility District
Tahoe City Public Utility District
Tahoe Fund
Tahoe Regional Planning Agency
Tahoe Resource Conservation District

OPPOSITION: (Verified 10/10/23)

None received

ARGUMENTS IN SUPPORT: According to the author, "SB 470 would establish the Urban Water Community Drought Relief program and the Small Community Drought Relief program within the Department of Water Resources. These programs would authorize funding for benefits in addition to drought relief, including projects that reduce the risk of wildfire through water delivery system improvements in high fire hazard severity zones.

"California's rural communities have been ground zero for large-scale environmental and economic devastation during the past decade due to wildfires. Aging infrastructure combined with insufficient resources to prepare for adequate

wildfire response has left many rural communities at high risk for further unchecked fire activity. Many rural mountain communities are identified as 'at-risk' and lack a clear boundary between wildland fuels and the developed community. This bill will help provide more funding for wildfire defense and protect rural communities."

According to the North Tahoe Public Utility District; South Tahoe Public Utility District; and Tahoe City Public Utility District (Tahoe Water for Fire Suppression Partnership), whose mission is to accelerate the installation of water infrastructure improvements critical to addressing fire suppression needs, "This bill addresses a funding gap for projects that improve wildfire resiliency in rural communities. Water infrastructure for fire suppression has historically been overlooked as a critical component that protects communities in the wildland urban interface from wildfires. This bill identifies a pathway for grant eligibility for these types of projects in communities designated in high fire severity zones…

"Over the next 5 years, the Partnership expects an additional investment of $120 million is needed to protect Lake Tahoe communities from wildfire by improving the capacity of water availability and fire flows for firefighters. The cost is more than can be financed through rate payer revenue alone, and this bill provides an opportunity for water utility providers to accelerate the installation of these important improvements while keeping water rates affordable for customers."

GOVERNOR'S VETO MESSAGE:

The Governor writes: "I thank the author for the commitment to support under-resourced communities most at risk of wildfire, and the intent of this bill is in line with work currently underway within my Administration. The California Governor's Office of Emergency Services (CalOES) recently launched the Prepare California Initiative, a grant program focused on building community resilience amongst vulnerable individuals living in high hazard risk communities.

"However, the two programs this bill seeks to expand have exhausted all funding appropriated in the 2021 Budget and as such, it is unnecessary to formally establish the programs in statute."

ASSEMBLY FLOOR: 79-0, 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, 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

NO VOTE RECORDED: Essayli

Prepared by: Catherine Baxter / N.R. & W. / (916) 651-4116
10/19/23 10:40:50

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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VETO

Bill No: SB 486
Author: Hurtado (D)
Amended: 8/14/23
Vote: 27

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

SENATE FLOOR: 39-0, 4/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, 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: Dahle

SENATE FLOOR: 28-9, 9/12/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Dodd, Jones, Min, Newman, Niello, Seyarto, Wilk
NO VOTE RECORDED: Caballero, Grove, Stern

ASSEMBLY FLOOR: 60-9, 9/7/23 - See last page for vote

SUBJECT: Interscholastic athletics: California Interscholastic Federation: state football championships: neutral locations

SOURCE: Author

DIGEST: This bill requires the California Interscholastic Federation (CIF) to hold all state football championship games at a neutral location that is comparable to the location of all other state championship games.

ANALYSIS:

Existing law:

1) Provides that the CIF is a voluntary organization that consists of school and school-related personnel with responsibility for administering interscholastic athletic activities in secondary schools. (Education Code (EC) 33353 (a))

2) Specifies the CIF shall report to the appropriate policy committees of the Legislature and the Governor on its evaluation and accountability activities undertaken on or before January 1, 2023, and on or before January 1 every seven years thereafter. This report shall include, but not be limited to, the goals and objectives of the CIF with regard to, and the status of, all of the following:

   a) The governing structure of the CIF, and the effectiveness of that governance structure in providing leadership for interscholastic athletics in secondary schools.

   b) Methods to facilitate communication with agencies, organizations, and public entities whose functions and interests interface with the CIF.

   c) The quality of coaching and officiating, including, but not limited to, professional development for coaches and athletic administrators, and parent education programs.

   d) Gender equity in interscholastic athletics, including, but not limited to, the number of male and female pupils participating in interscholastic athletics in secondary schools, and action taken by the CIF in order to ensure compliance with Title IX of the federal Education Amendments of 1972. (20 U.S.C. Sec. 1681 et seq.)

   e) Health and safety of pupils, coaches, officials, and spectators.

   f) The economic viability of interscholastic athletics in secondary schools, including, but not limited to, the promotion and marketing of interscholastic athletics.

g) New and continuing programs available to pupil athletes.

h) Awareness and understanding of emerging issues related to interscholastic athletics in secondary schools. (EC 33353 (b))

3) States that, subject to funds being appropriated for this purpose in the annual Budget Act, the CIF is encouraged to establish a statewide panel that includes, at a minimum, the following members: school administrators, school board members, coaches of secondary school athletics, teachers, parents, athletic directors, representatives of higher education, pupils participating in athletics at the secondary school level, and a representative of the State Department of Education. (EC 35179.2)

This bill:

1) Requires the CIF to hold all state football championship games at a neutral location that is comparable to the location of all other championship games, except in situations that are outside of the control of the California Interscholastic Federation, including but not limited to:

a) Strikes or other labor matters;

b) Destruction of or damage to any football facility or building;

c) Natural disasters;

d) Epidemics;

e) Accidents;

f) Riots;

g) A regulation rule, law, ordinance, order of any federal, state or local government authority; or

h) Football facility contracts that are cancelled by the facility without reasonable time to contract with another facility.

2) Defines "neutral location" as a venue or site that is not the home ground of either team.

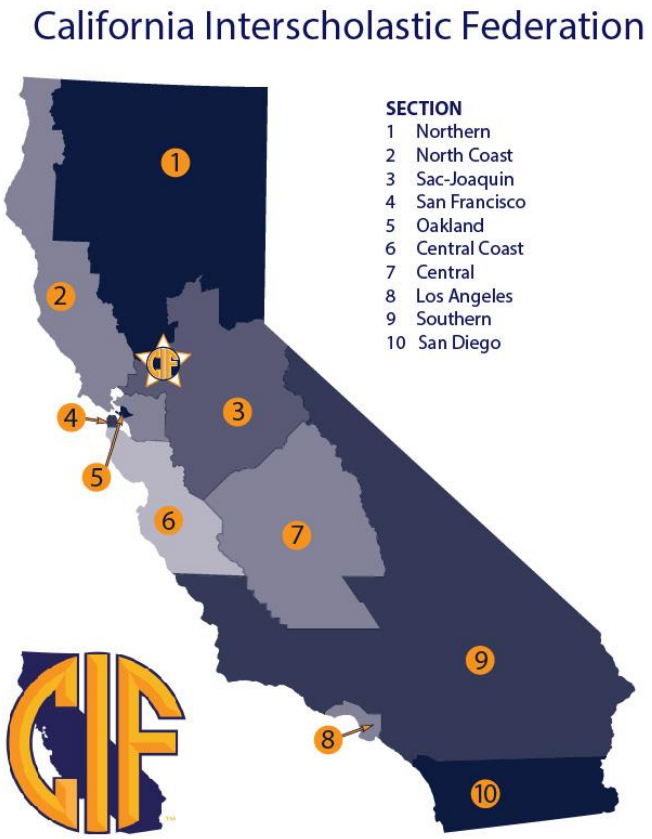
3) Adds findings and declarations.

Comments

1) *Need for bill.* According to the author's office "In California, there are disparities in the quality and availability of sports facilities between high-income and low-income schools. For example, high-income schools typically have access to better quality sport fields, modern gymnasiums, and state-of-the-art athletic equipment. Meanwhile, low-income schools may have limited or inadequate sports facilities that negatively impact student athletic experiences and opportunities. Our Student-athletes who get the opportunity to play in any State Championship Football game deserve the same treatment all across the state so they are all able to showcase their hard work, talents, and skills in a safe and equitable space. All students deserve to be celebrated and acknowledged for their efforts which is why SB 486 requires the CIF to hold all State Football championship games at a neutral location that is comparable to the location of all other championship games."

2) *The California Interscholastic Federation.* The CIF, founded in 1914, is a voluntary organization consisting of 1,615 public, public charter and private high schools that are aligned into ten geographical sections for the purpose of governing education-based athletics in grades 9 through 12.

   While each CIF section has autonomy from the state and have their own governance structure, section control and oversight is by school representatives from that geographical region. These representatives include school board members, superintendents, principals, teachers, coaches and athletic directors from each high school who come together to carry out the CIF's mission that is outlined in the CIF Constitution and Bylaws. The CIF Constitution and Bylaws is the product of the CIF elected representatives who serve on the CIF Federated Council and Executive Committee.



The elected membership of the Federated Council consists of school and district representatives elected from the 10 CIF Sections (see above). State council membership voting is weighted to reflect the number of schools and students served by the respective CIF sections. Additionally, voting members of the Federate Council include: representatives from the California Department of Education; California School Boards Association; Association of California School Administrators; California Association for Health, Physical Education, Recreation and Dance; California Coaches Association, California Athletic Directors Association, California Association of Private Schools, California Association of Directors of Activities and California School Superintendents.

The CIF receives no state or federal funding as part of its annual budget and is supported by state championship game receipts (36%), corporate support and sponsorships (35%) and limited membership dues (18%). Local school programs are supported by their school district general fund, game receipts and fundraising by coaches, student-athletes and booster clubs.

3) *Football - State Championship Bowl Games v. Regional Championship Games Locations.* According to the CIF's *Blue Pages*, CIF considers (in no particular order) criteria for divisional placement and hosting of regional games:

a) Win-Loss Record (Preseason, League, Section Playoffs);
b) Strength of Schedule (Preseason, League, Section Playoffs);
c) Head to Head Competition;
d) Common Opponents;
e) Opponents Win-Loss Record;
f) Various rankings may be consulted when placing teams (i.e. ScorebookLive, Cal-Hi Sports, Cal Preps); and
g) Suitability to represent the State in a Bowl Championship with regards to "Pursuing Victory with Honor" and acceptable standards of sportsmanship.

To qualify, teams must compete and qualify through their respective CIF Section Championships to participate in CIF State/Regional Championships. Only Section Champions are eligible for selection to the CIF State/Regional Football Championship Bowl Games. State/regional championship games are typically played at the field/stadium of the host team. The CIF decides the location of where these games are set.

Since 2015, five Divisions (Open division (teams from any division, any section and regardless of enrollment), 1AA, 1A, 2AA, 2A), play at football stadiums, other than their own high school football stadiums secured by CIF. For the first three years, the state championship bowl games were held at California State University, Sacramento's Hornet Stadium before being moved to Cerritos College (2018-19), and Saddleback College (2021-22). At the end of the 2022 football season, CIF's contract with Saddleback College expired. CIF is currently in the process of securing a new venue.

Currently, the remaining ten Divisions (3-AA, 3-A, 4-AA, 4-A, 5-AA, 5-A, 6-AA, 6-A, 7-AA, 7-A) play championship games primarily at the home sites of a competing team. In 2022:

Division	Teams	Location
3–AA	San Jacinto v. Grant	Grant Union High School
3–A	Laguna Hills vs. Bellarmine	San Jose City College
4–AA	Northwood v. Escalon	Escalon High School
4–A	Granada Hills v. San Marin	San Marin High School
5–AA	Muir v. Hughson	Hughson High School

5–A	Shafter v. Orland	Orland High School
6–AA	Classical Academy v. Santa Teresa	Santa Teresa High School
6–A	San Gabriel v. Atascadero	Atascadero High School
7–AA	Pinole Valley v. Mendota	Mendota High School
7–A	Crenshaw vs. Lincoln, San Francisco	Kezar Stadium

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

SUPPORT: (Verified 10/9/23)

City of Shafter

OPPOSITION: (Verified 10/9/23)

California Interscholastic Federation
CleanEarth4Kids.org
Safe Healthy Playing Fields

ARGUMENTS IN SUPPORT: According to the City of Shafter, "The City of Shafter is pleased to support SB 486 (Hurtado) which requires CIF to hold all state football championship games for all divisions across the State at neutral locations. In early December 2022, under the rules of the CIF, thirty high school football teams competed in a State Championship game. While all winning teams can equally claim to be a 'State Champion' the conditions under which the games were played were less than equal. For teams competing within the first five divisions, their competitions took place at a neutral location - a college football facility - with better field conditions, medical accessibility, seating and sideline and media participation. The remaining CIF State Championship games - made up typically of small and rural schools - were not given the same level of significance or attention. Those games were played under field, visitor and sideline conditions that varied greatly from the other CIF State Championship being played at college facilities."

ARGUMENTS IN OPPOSITION: According to the California Interscholastic Federation (CIF), "In December 2022, some State CIF football championship game venues were affected by several historic atmospheric rivers that hit California. As a result, we heard from some member schools that alternate venues, comparable to the football stadiums used for the CIF higher division football championship

games, should be selected for all championship games. Over the course of the next several months, the State CIF began meeting with the CIF Section Commissioners, Executive Committee, and staff to discuss the feasibility of hosting all 15 state championship games at comparable and neutral sites... CIF does not object to the intent of SB 486, and we agree that our student-athletes should be able to have similar state championship experiences. As part of our commitment to this goal, the CIF has submitted applications to various community colleges in the state, and it is our intent to use neutral and comparable sites for all state championship football contests in fall 2023, pending obtainability of host sites… We believe the best setting for resolving this matter is through the course already underway by the CIF and that SB 486 is an unnecessary use of state authority."

GOVERNOR'S VETO MESSAGE:

> This bill would require the California Interscholastic Federation to hold all state football championship games at a neutral location that is comparable to the location of all other championship games, except under specified circumstances.
>
> The California Interscholastic Federation (CIF) has already begun taking steps to hold state football championship games for all divisions at comparable neutral locations as called for in this bill. Once fully implemented later this year, these changes will provide equal opportunities for all participating schools, regardless of their division or financial resources. Therefore, this bill is unnecessary.

ASSEMBLY FLOOR: 60-9, 9/7/23

AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Vince Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, 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, Megan Dahle, Davies, Dixon, Gallagher, Hoover, Irwin, Mathis, Waldron

NO VOTE RECORDED: Bennett, Chen, Essayli, Flora, Lackey, Muratsuchi, Jim Patterson, Joe Patterson, Petrie-Norris, Sanchez, Ta

Prepared by: Kordell Hampton / ED. / (916) 651-4105
10/19/23 10:43:08

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

SENATE RULES COMMITTEE SB 493
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VETO

Bill No: SB 493
Author: Min (D), et al.
Amended: 6/19/23
Vote: 27

SENATE ENERGY, U. & C. COMMITTEE: 17-0, 3/21/23
AYES: Bradford, Dahle, Ashby, Becker, Caballero, Dodd, Durazo, Eggman, Gonzalez, Grove, McGuire, Min, Newman, Rubio, Seyarto, Skinner, Wilk
NO VOTE RECORDED: Stern

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 4/19/23
AYES: Allen, Dahle, Gonzalez, Limón, Menjivar, Nguyen, Skinner

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

SENATE FLOOR: 36-0, 5/26/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Seyarto, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Alvarado-Gil, Caballero, Rubio, Stern

SENATE FLOOR: 39-0, 9/12/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

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

SUBJECT: Air pollution: alternative vehicles and electric and hydrogen infrastructure

SOURCE: Author

DIGEST: This bill requires the California Energy Commission (CEC) to assess the energy resources needed to meet state goals to transition medium- and heavy-duty vehicles to zero-emission vehicles (ZEVs), and it requires the California Air Resources Board (CARB) to incorporate the CEC's assessments and a strategic plan for this transition into CARB's existing mobile source strategy.

ANALYSIS:

Existing law:

1) Requires CARB to update its mobile source strategy every five years to achieve certain emissions reduction goals from the medium and heavy-duty transportation sector. Specifies that CARB's mobile source strategy must identify policies to help accelerate emissions reductions from fleets and coordinate plans to achieve air quality goals. Specifies certain actions CARB must take to develop its mobile source strategy, including requiring CARB to identify areas where the state should coordinate with other agencies, districts, utilities, and technology providers to implement portions of the mobile source strategy. (Health and Safety Code §43024.2)

2) Requires the CEC to conduct a statewide assessment every two years of electric vehicle (EV) charging infrastructure needed to support the levels of EV adoption required for the state to meet its goals of putting at least five million ZEVs on California roads by 2030, and of reducing emissions of greenhouse gases (GHG) to 40 percent below 1990 levels by 2030. (Public Resources Code §25229)

3) Requires the CEC to gather specified information about the deployment of ZEV fleets subject to CARB regulations to enable electric utilities to estimate increased electrical loads resulting from fleet transitions to ZEVs. (Public Resources Code §25328)

4) Requires the California Public Utilities Commission (CPUC) to direct investor-owned utilities (IOUs) to file applications for investments to accelerate transportation electrification, reduce reliance on petroleum, and meet certain climate goals. The CPUC may approve or amend applications for transportation

electrification investments. IOUs are authorized to recover reasonable costs for approved investments from ratepayers if they are consistent with certain requirements. (Public Utilities Code §740.12(b))

5) Requires the CPUC to review data related to current and future transportation electrification adoption and charging infrastructure prior to allowing an IOU to collect new program costs from ratepayers. (Public Utilities Code §740.12(c))

6) Requires each publicly owned utility (POU) with an annual electrical demand exceeding 700 gigawatt hours to adopt an integrated resources plans (IRP) that helps ensure that the POU will meet climate goals for the electricity sector. An IRP must be updated at least once every five years and must address procurement plans for the following:

   a) Energy efficiency and demand response resources,

   b) Energy storage requirements,

   c) Transportation electrification,

   d) A diversified energy resource procurement portfolio, and

   e) Resource adequacy requirements. (Public Utilities Code §9621)

7) Requires the CPUC to establish EV-grid integration strategies for certain load-serving entities (LSEs). POUs must consider EV-grid integration strategies in their IRPs, and community choice aggregators (CCA) must report specified information to the CPUC regarding EV-grid integration activities. (Public Utilities Code §740.16)

This bill:

1) Requires the CEC to consult with CARB and the CPUC to assess the energy sector resources needed to meet specified state goals for transitioning medium- and heavy-duty vehicles to ZEVs. Requires these assessments to be included in existing assessments regarding the EV and hydrogen infrastructure needed to support state ZEV deployment goals. Specifies that these assessments must address the following:

   a) Hydrogen production, storage, and transport facilities needed to support the transition of medium- and heavy-duty fleets to ZEVs.

   b) Electric system infrastructure and electric generation needed to support the transition of medium- and heavy-duty vehicles to ZEVs.

c) Barriers to the deployment of electric and hydrogen infrastructure for medium- and heavy-duty fleets and recommendations for addressing these barriers.

2) Requires CARB to incorporate findings from the CEC's assessments and develop a strategic plan for medium and heavy-duty fleet ZEV transition as part of future updates to CARB's mobile source strategy.

3) Requires the CEC to determine the adequacy of completed and planned ZEV refueling and charging infrastructure and identify any charging or fueling site deficiencies and categorize those deficiencies by refueling speed and by type of facility, as either a public facility or a private facility.

Background

Recent decisions have accelerated the timeline for transitioning to ZEVs. While prior legislation codified the goal of putting at least five million ZEVs on California roads by 2030, recent administrative decisions have expanded the scope and timeline of the state's ZEV transition. Executive Order N-79-20 established a goal that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035. This executive order also established a goal that 100 percent of medium- and heavy-duty vehicles in the state will be zero-emission by 2045. In response to this executive order, CARB has adopted regulations aimed at phasing out the sale of petroleum-fueled vehicles. CARB has adopted the Advanced Clean Cars regulations to address light-duty vehicle transition requirements and is in the process of developing an Advanced Clean Fleets rule for medium- and heavy-duty fleet transition.

Both electric and hydrogen vehicles rely on energy sector resources. While battery electric vehicles dominate the light-duty ZEV market, a significant number of medium- and heavy-duty manufacturers plan to transition fleets to hydrogen fuel cell vehicles. To support the accelerated deployment of both battery electric vehicles and hydrogen fuel cell vehicles, the state must substantially accelerate the deployment of charging and refueling infrastructure to support these vehicles. The CEC has estimated that the state will need at least 1.2 million EV chargers by 2030 to transition light-duty passenger vehicles to EVs, and the CEC estimated that the state will need at least 157,000 fast chargers to meet the 2030 benchmarks for transitioning medium- and heavy-duty vehicles. The CEC's assessments of the infrastructure needed to support the ZEV transition acknowledges that ZEV deployment will increase electric load, particularly in the electric service territories for Pacific Gas and Electric and Southern California Edison.

Medium- and heavy-duty EVs and hydrogen vehicles require a significant amount of electricity resources. Medium- and heavy-duty EVs have large batteries that require a substantial amount of electricity to charge. Charging these large batteries can take extended periods-of-time. Large fleets can require several megawatts to operate a single truck charging depot. Hydrogen fuel cell trucks can refuel more quickly than EVs; however, they require hydrogen to be transported and stored for refueling. Electrolyzers require a substantial amount of electricity to produce this hydrogen at market scale.

Transitioning medium- and heavy-duty fleets poses particular challenges for the energy sector. A substantial amount of the potential emissions reductions from the transition to ZEVs rely on the energy sector's achievement of its own emissions reduction goals. Medium- and heavy-duty vehicles are a significant source of California's emissions, and transitioning these vehicles to ZEVs could produce substantial GHG emissions reductions. Despite this potential, some stakeholders have expressed concerns that the underlying assumptions used in existing plans for the medium- and heavy-duty ZEV transition do not fully address the barriers to planning energy sector resources for this transition. These stakeholders argue that existing plans are not sufficiently detailed to address the specific challenges associated with electrifying or deploying hydrogen infrastructure to actually make medium- and heavy-duty fleet transitions achievable within CARB's timelines.

Deployment of higher voltage chargers and increased production of hydrogen relies in part on upgrades to the local utility distribution system and the creation of additional electric capacity. Some of these utility resources may require substantial advance planning, local engagement, CPUC approval, and permitting. In the event that these utility resources are not planned sufficiently far in advance of CARB's ZEV transition deadline, fleets may not be able to comply with CARB rules in a timely manner.

This bill emphasizes the need for better coordination between ZEV goals and energy sector planning. Prior legislation (AB 2700, McCarty, Chapter 354, Statutes of 2022) required the CEC to gather and report fleet data needed to support utilities' plans for grid reliability and enhanced vehicle electrification. While AB 2700 ensures that utilities gain information about electric fleet deployment, it is unclear if state agencies planning the ZEV transition are using assumptions that account for the electric generation, distribution, and transmission resources needed to ensure that ZEV fleets have sufficient infrastructure and capacity for refueling and re-charging. Vehicle-grid integration strategies may be able to mitigate certain grid strains; however, these strategies cannot completely

address the demands placed on the energy sector from the charging and refueling needs of all fleets.

Related/Prior Legislation

SB 507 (Gonzalez, 2023) would have expanded information the CEC must include in existing EV infrastructure assessments. The bill also codifies certain ZEV deployment goals contained in Executive Order No. N-79-20. The bill was held in the Senate Appropriations Committee.

AB 2700 (McCarty, Chapter 354, Statutes of 2022) required the CEC to gather and report fleet data needed to support utilities' plans for grid reliability and enhanced vehicle electrification. The bill also required utilities to report how distribution investments made, pursuant to the bill, support climate goals as part of specified filings with the CEC and CPUC.

SB 676 (Bradford, Chapter 484, Statutes of 2019) required the CPUC to establish EV-grid integration strategies for certain LSEs. The bill also required POUs to consider EV-grid integration strategies in their IRPs and required CCAs to report specified information to the CPUC regarding EV-grid integration activities.

AB 2127 (Ting, Chapter 365, Statutes of 2018) required the CEC to conduct a statewide assessment every two years of EV charging infrastructure needed to support the levels of EV adoption required for the state to meet its goals of putting at least five million ZEVs on California roads by 2030, and of reducing GHG emissions to 40 percent below 1990 levels by 2030.

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

According to the Assembly Appropriations Committee:

1) Significant costs to CARB, likely in the mid hundreds of thousands of dollars to modify its mobile source strategy as directed by this bill (General Fund or special fund).

2) CARB estimates it will need seven permanent positions, at a cost of $1.6 million annually to implement this bill, which ARB contends would need be funded from the General Fund. It is not clear, however, in some instances, that all the workload activities CARB attributes to this bill are actually required by this bill or that the workload the bill creates is as great as CARB assumes.

3) Ongoing costs in the low hundreds of thousands of dollars to CEC to expand its reports and assessments and to update the assessments as needed. (Alternative and Renewable Fuel and Vehicle Technology Fund or other special fund.)

SUPPORT: (Verified 10/13/23)

Association of California Water Agencies
California Special Districts Association
California Trucking Association
Climate Action California
Palmdale Water District
Port of Oakland

OPPOSITION: (Verified 10/13/23)

None received

ARGUMENTS IN SUPPORT: According to the author:

> Medium- and heavy-duty vehicles contribute a disproportionately high share of the transportation sector's greenhouse gas emissions. The transition of medium- and heavy-duty vehicles to zero-emission vehicles is critical to reach California's climate targets. While the state is making great progress toward its climate goals, a big piece of the puzzle is missing: the necessary infrastructure to support these vehicles. This bill will ensure that agencies work together to facilitate the build out of critical infrastructure before ZEV fleets get on the road.

GOVERNOR'S VETO MESSAGE:

> This bill would expand the scope of several assessments and strategies developed by the California Energy Commission (CEC) and California Air Resources Board (CARB) related to zero-emission vehicle (ZEV) infrastructure.
>
> However, this bill results in costs to the CEC's primary operating fund, which is currently facing an ongoing structural deficit, and thus exacerbates the fund's structural imbalance.
>
> Additionally, many provisions of this bill are currently being incorporated into relevant ZEV infrastructure planning processes at the California Public Utilities Commission (CPUC), in consultation with both the CEC and CARB.

At best, this bill's provisions may duplicate these efforts and, at worst, may complicate this work and lead to misaligned interagency work streams.

We must ensure that the CPUC, CEC and CARB utilize their core competencies and focus their expertise and existing resources on improving ZEV infrastructure planning processes. This bill falls short of accomplishing this goal.

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: Sarah Smith / E., U. & C. / (916) 651-4107
10/25/23 10:52:42

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

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VETO

Bill No: SB 509
Author: Portantino (D), et al.
Amended: 9/7/23
Vote: 27

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: 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

SENATE FLOOR: 39-0, 9/13/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 78-0, 9/11/23 - See last page for vote

SUBJECT: School employee and pupil training: youth mental and behavioral health: mental health education

SOURCE: California Council of Community Behavioral Health Agencies

DIGEST: This bill requires, by July 1, 2027, a local educational agency (LEA) serving students in grades seven to 12 to certify to the California Department of Education (CDE) that 40% of its classified employees and 100% of its certificated employees who have received youth behavioral health training identified by the CDE; and adds instruction in mental health to the course of study for grades 1 to 6.

ANALYSIS:

Existing law:

1) Defines "Youth behavioral health disorders" to mean a pupil mental health and substance use disorders. (Education Code (EC) § 49428.15 (a)(4))

2) Defines "Youth behavioral health training" to mean training addressing the signs and symptoms of a pupil mental health or substance use disorder. (EC § 49428.15(a)(5))

3) Requires the CDE, by January 1, 2023, to recommend best practices and identify evidence-based and evidence-informed training programs for schools to address youth behavioral health, including, but not necessarily limited to, staff and pupil training, and requires the CDE, in identifying one or more evidence-based or evidence-informed youth behavioral health training programs for use by LEAs to ensure that each training program meets all of the following requirements:

   a) Provides instruction on recognizing the signs and symptoms of youth behavioral health, including common psychiatric conditions and substance use disorders such as opioid and alcohol abuse.

   b) Provides instruction on how school staff can best provide referrals to youth behavioral health services, or other support to individuals in the early stages of developing a behavioral disorder.

   c) Provides instruction on how to maintain pupil privacy and confidentiality in a manner consistent with federal and state privacy laws.

   d) Provides instruction on the safe deescalation of crisis situations involving individuals with a youth behavioral health disorder.

   e) Is capable of assessing trainee knowledge before and after training is provided in order to measure training outcomes.

f) Is administered by a nationally recognized training authority in youth behavioral health disorders.

g) Includes in-person and virtual training with certified instructors who can recommend resources available in the community for individuals with a youth behavioral health disorder. For this purpose "certified instructors" means individuals who obtain or have obtained a certification to provide the selected training. (EC § 49428.15 (c))

4) Requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the district to employ properly certified persons for the work. (EC § 49400)

5) Requires the governing board of any LEA that serves pupils in grades seven to twelve, inclusive, to adopt a policy on pupil suicide prevention, intervention, and postvention. The policy shall specifically address the needs of high-risk groups, including suicide awareness and prevention training for teachers, and ensure that a school employee acts within the authorization and scope of the employee's credential or license. (EC § 315)

This bill:

1) Requires, by July 1, 2027, an LEA serving students in grades seven to 12 to certify to the CDE that 40% of its classified employees and 100% of its certificated employees who serve and have direct contact with these students have received youth behavioral health training identified by the CDE.

2) Requires the training to be scheduled during regularly scheduled work hours, except in certain situations.

3) Defines LEA, for purposes of this training requirement, to mean a county office of education (COE), school district, state special school for the blind or the deaf, or charter school that serves pupils in kindergarten or any of grades 1 to 6, inclusive.

4) Requires CDE, by January 1, 2025, and subject to appropriation, to recommend best practices and identify training programs for school employees to address youth behavioral health for use by LEAs serving students in kindergarten to grade six.

5) Includes instruction in mental health in the health course of study for grades 1 to 6.

Comments

1) *Need for the bill.* According to the author "Under SB 14 (Portantino, Chapter 672, Statutes of 2021), the completion of a state-identified training program to address youth behavioral health is not required. This bill, SB 509, builds upon the law by requiring a LEA, as defined, to certify to the department that 75 percent of both classified and certificated employees having direct contact with pupils received the youth behavioral health training identified. This bill ensures that designated staff is trained to recognize and respond to signs of mental health challenges and substance use, strengthening opportunities to intervene and guide youth to appropriate resources and services."

2) *CDE Youth Behavioral Health Programs.* Pursuant to SB 14 (Portantino, Chapter 672, Statutes of 2021), the CDE was required to recommend, by January 1, 2023, best practices and identify evidence-based and evidence-informed training programs for schools to address youth behavioral health, including, but not necessarily limited to, staff and pupil training.

   On the CDE's website, the department has identified the Youth Mental Health First Aid (YMHFA) a research-based curriculum created upon the medical first aid model. It is designed to provide parents, family members, caregivers, teachers, school staff, neighbors, and other caring adults with skills to help a school-age child or youth who may be experiencing emotional distress, the onset of a mental illness, addiction challenge, or who may be in crisis. YMHFA participants learn to recognize signs and symptoms of children and youth in emotional distress, initiate and offer help, and connect the youth to professional care through a five-step action plan.

   YMHFA also clarifies "that its training is **not** intended for staff with a mental health background such as school psychologists, social workers, clinicians, etc., due to its basic nature. The ideal audience includes teachers, administrators, nurses, counselors, and any other credentialed staff, classified staff (school secretaries, registrars, yard supervisors, campus monitors, bus drivers, lunch staff, janitors, aides, after school staff, etc.), parents, youth employers, and other community partners that have contact with students."

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

According to the Assembly Appropriations Committee analysis, "Ongoing General Fund costs to CDE through the 2026-27 fiscal year, in the hundreds of thousands of dollars annually, to certify that school employees have completed the required training and recommend training programs. CDE also indicates it will provide technical assistance to LEAs to comply with the bill's requirements. One-time Proposition 98 General Fund costs to LEAs of an unknown but significant amount, potentially in the tens of millions of dollars or more, to ensure a portion of their school employees have received youth behavioral health training. Costs include training costs to LEAs and the cost of employee time to complete the training during work hours. CDE currently offers a no-cost training program, as described in comment 2, however, it is unlikely the program could keep pace with demand created by this bill, absent a budget allocation or charging of fees to LEAs. In addition, schools would need to provide the training during work hours. This may require substitute teachers or other personnel be hired during the times a school employee completes the training. CDE's no-cost training mentioned above takes 7.5 hours to complete. These costs would be borne by LEAs before the requirement takes effect July 1, 2027. Costs would be lower to the extent school employees already have completed an eligible training. The state has over 130,000 certificated employees teaching grades seven to 12 and more than 250,000 classified employees. The average cost of a substitute teacher for one day is between $200 and $300. Ongoing costs of an unknown amount to LEAs to modify instruction to students in grades one to six ensure content on mental health. The state has 800 schools serving over 2.5 million students in grades one to six. If the Commission on State Mandates determines these 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 9/11/23)

California Council of Community Behavioral Health Agencies (source)
American Foundation for Suicide Prevention
Blue Shield of California
Board of Behavioral Sciences
California Access Coalition
California Alliance of Caregivers
California Alliance of Child and Family Services
California Association for Behavior Analysis
California Association of Local Behavioral Health Boards and Commissions
California Association of School Counselors

California Coalition for Mental Health
California Coalition for Youth
California State Association of Psychiatrists
California Youth Empowerment Network
Children Now
Children's Institute
Common Sense Media
Community Solutions for Children, Families and Individuals
Democratic Club of Claremont
Depression and Bipolar Support Alliance California
East Bay Children's Law Offices
Hillsides
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Los Angeles County Office of Education
Mental Health America of California
Mental Health America of Los Angeles
Mental Health Services Oversight and Accountability Commission
Monarch School
National Association of Social Workers, California Chapter
National Center for Youth Law
National Council for Mental Wellbeing
National Health Law Program
NextGen California
Pallet Shelter
PathPoint
Portia Bell Hume Behavioral Health and Training Center
Reach Out
Steinberg Institute
Sycamores
Tessie Cleveland Community Services Corporation
The Kennedy Forum

OPPOSITION: (Verified 9/11/23)

California Teachers Association

ARGUMENTS IN SUPPORT: According to the California Council of Behavioral Health Agencies, "SB 509 builds upon the success of SB 224 (Portantino, 2021), requiring that all students between grades 1 and 12 receive evidence based age-appropriate mental health education from a qualified instructor

at least one time during elementary school, one time during middle school, and one time during high school. Education about mental health is one of the best ways to increase awareness, empower students to seek help, and reduce the stigma associated with mental health challenges. Evidence-based education about mental health is one of the best ways to increase awareness, empower students to seek help, and reduce the stigma associated with mental health challenges. Schools are ideally positioned to be centers of mental health education, healing, and support. As children and youth spend more hours at school than at home, the public education system is the most efficient and effective setting for providing universal mental health education to children and youth."

ARGUMENTS IN OPPOSITION: According to the California Teachers Association, “CTA is opposed to the training mandate and suggests it be replaced with a "grant" program administered by the California Department of Education (CDE) funded by an appropriation to CDE. LEAs, in consultation with impacted collective bargaining representatives, could apply to CDE for funding to conduct youth behavioral health training based on "model" student behavioral health referral protocols developed by CDE as a result of AB 309 (Chpt. 662-2021) along with best practices and evidence-based and informed training programs addressing youth behavioral health as a result of SB 14 (Chpt. 672-2021) or local training programs developed by LEAs. All employee youth behavioral health training, regardless of the frequency, length, and/or the specificity of the topics to be covered, must be collectively bargained at the local level. CTA continues to express concerns around the liability of school employees and/or the school district after completing youth behavioral health training? How frequently is training to be repeated/updated? What kind of training will employees receive in a 60- to 90-minute format versus a multi-day format particularly given the instruction is to include ‘recognizing the signs and symptoms of youth behavioral health disorders including common psychiatric conditions such as schizophrenia, bipolar disorder, major clinical depression, and anxiety disorders. SB 509 must clarify whether trained employees would be required to notify a school administrator if they ‘believe’ a student has behavioral health issues; as well as the consequences if a trained school employee in youth behavioral health fails to identify a student with behavioral health issues."

GOVERNOR'S VETO MESSAGE:

> This bill would require local educational agencies to certify to the California Department of Education by July 1, 2027, that 100 percent of its certificated staff and at least 40 percent of its classified staff who have direct contact

with students in grades 7-12 have received youth behavioral health training as specified.

I share the author's goal of ensuring that school staff are equipped with the tools to recognize and offer appropriate support to students experiencing mental health challenges. However, I have concerns with some aspects of the bill as written, including the appropriate scope of the required, one-time training and the lack of an appropriate mechanism to fund the bill via the Gun Violence Prevention and School Safety Fund (AB 28, Chapter 231, Statutes of 2023).

To address these issues, and to ensure alignment with other state investments in this area, I am directing the Department of Finance to propose language for the Legislature's consideration as part of next January's state budget proposal."

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, Ramos, Rendon, Reyes, Luz Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Robert Rivas
NO VOTE RECORDED: Quirk-Silva, Zbur

Prepared by: Kordell Hampton / ED. / (916) 651-4105
10/25/23 10:52:43

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

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THIRD READING

Bill No: SB 536
Author: Rubio (D)
Amended: 1/3/24
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 1/9/24
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Jones, Nguyen, Niello, Padilla, Portantino, Roth, Rubio, Seyarto

SUBJECT: Horse racing: out-of-state thoroughbred races: Delaware Handicap

SOURCE: Author

DIGEST: This bill adds the Delaware Handicap to the group of out-of-state horseraces that are exempt from the 50 races-per-day limit on imported races in California.

ANALYSIS:

Existing law:

1) Authorizes the Legislature, through Article IV, Section 19(b) of the Constitution of the State of California, to provide for the regulation of horse races and grants the California Horse Racing Board (CHRB) the authority to regulate the various forms of horse racing authorized in this state.

2) Authorizes thoroughbred racing associations or fairs to distribute the audiovisual signal and accept wagers on the results of out-of-state and international thoroughbred races during the calendar period the association or fair is conducting live racing, including days on which there is no live racing being conducted by the association or fair.

3) Limits the number of races that may be imported by associations and fairs to no more than 50 races-per-day on days when live thoroughbred or fair racing is being conducted in this state, with specified exceptions.

4) Exempts from that 50 races-per-day limit any imported horse races that are part of the race card of the Kentucky Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont Stakes, the Jockey Club Gold Cup, the Travers Stakes, the Arlington Million, the Breeders' Cup, the Dubai World Cup, the Arkansas Derby, the Apple Blossom Handicap, the Blue Grass Stakes, and the Haskell Invitational.

This bill adds the Delaware Handicap to the existing list of out-of-state horseraces that are exempt from the 50 races-per-day importation limit.

Background

The Delaware Handicap. The Delaware Handicap is a Grade 2 race open to fillies and mares three years-old and up. It is run at a distance of 1 3/16th miles in mid-July and is sometimes referred to as the "Del Cap." The race is held at Delaware Park in Stanton, Delaware, which is located about 10 miles from Wilmington, the largest city in the state. The race was run for the first time in 1937 – the inaugural year of the track – as the New Castle Handicap. It has run under its current name since 1955. In 1953, it became the first-ever $100,000 race for fillies and mares, making it the richest race in the world for female racers. In 2023, Delaware Park management announced the race would be shorted from 1 1/4 to 1 3/16th miles.

Existing law limits the number of out-of-state horse races that may be imported into California for wagering to 50 races-per-day. Over the years, the Legislature has occasionally exempted premier horse races from the daily limit of 50. Today, the race cards of 13 premier out-of-state horse races are exempted from the limitation. This bill adds the Delaware Handicap to the existing list of out-of-state horseraces that are exempt from the 50 races-per-day limit.

Satellite Wagering. Satellite wagering via an off-track facility has been legal in California since the 1980s when California racetracks were beginning to experience declining attendance and handle figures. The industry believed that making the product easier to access not only would expose and market horse racing to potential customers, but also would make it more convenient for the existing patrons to wager more often.

Simulcasting. Simulcasting is the process of transmitting the audio and video signal of a live racing performance from one facility to a satellite for re-transmission to other locations or venues where pari-mutuel wagering is permitted. Simulcasting provides racetracks with the opportunity to increase revenues by

exporting their live racing content to as many wagering locations as possible, such as other racetracks, fair satellite facilities, and Indian casinos. Revenues increase because simulcasting provides racetracks that export their live content with additional customers in multiple locations who would not have otherwise been able to place wagers on the live racing event.

Racetrack Attendance. Prior to the COVID-19 Pandemic, and closure of non-essential businesses in California, the horse racing industry had been witnessing a general decline in the number of people attending and wagering at live tracks in California for more than three decades due to a number of factors including; increased competition from other forms of gaming, unwillingness of customers to travel a significant distance to racetracks, and the availability of off-track wagering. The declining attendance at live horse racing events has prompted racetracks to rely on revenues from in-state and out-of-state satellite wagering and account wagering.

Related/Prior Legislation

AB 1074 (Alanis, Chapter 275, Statutes of 2023) provided that if the CHRB does not license a thoroughbred race meet at a racetrack (Golden Gate Fields) located in the cities of Berkeley and Albany after July 1, 2024, and no live horse racing is being conducted in the northern zone, the bill deemed a thoroughbred racing association or racing fair in the southern or central zone, as specified, to be operating in the northern zone for the purpose of conducting all permissible forms of wagering in the northern zone and making and receiving required distributions from those wagers.

AB 1768 (Committee on Governmental Organization, 2023) adds the Pegasus World Cup to the group of races which are exempt from the 50 races-per-day limitation on imported races in California. (On the Senate Inactive File)

SB 494 (Dodd, 2021) would have added the Delaware Handicap to the existing list of out-of-state horseraces that are exempt from the 50 races-per-day import limitation. (Gutted and amended into an unrelated bill)

ACA 119 (Hornblower, Resolution Chapter 101, Statutes of 1933) placed Proposition 3 on the June 1933 ballot, which was approved by the voters and authorized the Legislature to provide for the regulation of horse races and horse race meetings and wagering on the results thereof.

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

SUPPORT: (Verified 1/9/24)

None received

OPPOSITION: (Verified 1/9/24)

None received

Prepared by: Brian Duke / G.O. / (916) 651-1530
1/11/24 11:12:36

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

SENATE RULES COMMITTEE
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VETO

Bill No: SB 541
Author: Menjivar (D), et al.
Amended: 9/1/23
Vote: 27

SENATE EDUCATION COMMITTEE: 5-2, 3/29/23
AYES: Newman, Cortese, Glazer, McGuire, Smallwood-Cuevas
NOES: Ochoa Bogh, Wilk

SENATE HEALTH COMMITTEE: 10-1, 4/12/23
AYES: Eggman, Glazer, Gonzalez, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NOES: Nguyen
NO VOTE RECORDED: Grove

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

SENATE FLOOR: 31-8, 5/31/23
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, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Grove

SENATE FLOOR: 30-9, 9/11/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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
NO VOTE RECORDED: Caballero

ASSEMBLY FLOOR: 65-11, 9/7/23 - See last page for vote

SUBJECT: Sexual health: contraceptives

SOURCE: Adolescent Health Working Group
Black Women for Wellness Action Project
Citizens for Choice
Essential Access Health
Generation Up
Unite for Reproductive & Gender Equity

DIGEST: This bill requires all public high schools to make condoms available to students by the start of the 2024-25 school year, and requires schools to provide information to students on the availability of condoms, as well as other sexual health information. This bill prohibits public schools from preventing distribution of condoms or preventing a school-based health center from making condoms available and easily accessible to students at the school-based health center site. This bill also prohibits retailers from restricting sales of nonprescription contraception on the basis of age.

ANALYSIS:

Existing law:

1) Establishes the California Healthy Youth Act (CHYA), which requires local educational agencies (LEAs) to provide comprehensive sexual health and HIV prevention instruction to all students in grades 7 to 12, at least once in middle school and once in high school. (Education Code (EC) § 51933)

2) Authorizes an LEA to contract with outside consultants or guest speakers, including those who have developed multilingual curricula or curricula accessible to persons with disabilities, to deliver comprehensive sexual health education and HIV prevention education or to provide training for school district personnel. All outside consultants and guest speakers shall have expertise in comprehensive sexual health education and HIV prevention education and have knowledge of the most recent medically accurate research on the relevant topic or topics covered in their instruction. (EC § 51936)

3) Requires that pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education at least once in junior high or middle school and at least once in high school. (EC § 51934)

4) Requires that the instruction and related instructional materials be, among other things:

   a) Age appropriate.

   b) Medically accurate and objective.

   c) Appropriate for use with pupils of all races, genders, sexual orientations, and ethnic and cultural backgrounds, pupils with disabilities, and English learners.

   d) Made available on an equal basis to a pupil who is an English learner, consistent with the existing curriculum and alternative options for an English learner pupil.

   e) Accessible to pupils with disabilities. (EC § 51934)

5) Authorizes an LEA to provide comprehensive sexual health education and HIV prevention education earlier than grade seven using instructors trained in the appropriate courses and age-appropriate and medically-accurate information. (EC § 51933)

6) Requires LEAs to provide parents and guardians with a notice at the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment the following:

   a) About instruction in comprehensive sexual health education and HIV prevention education and research on pupil health behaviors and risks planned for the coming year.

   b) Advise the parent or guardian that the educational materials used in sexual health education are available for inspection.

   c) Advise the parent or guardian whether the comprehensive sexual health education or HIV prevention education will be taught by school district personnel or by outside consultant, as provided.

d) Advise the parent or guardian that the parent or guardian has the right to excuse their child from comprehensive sexual health education and HIV prevention education and that in order to excuse their child they must state their request in writing to the LEA. (EC § 51938)

7) Provides that the parent or guardian of a pupil has the right to excuse their child from all or part of that education, including related assessments, through a passive consent ("opt-out") process. (EC § 51938)

This bill:

1) Requires, on or before the start of the 2024–25 school year, each public school to make condoms available to all pupils in grades 9 to 12, inclusive, free of charge, and requires related information to be made available to students.

2) Requires each public school serving any of grades 7 to 12, inclusive, to allow condoms to be made available during the course of, or in connection with, educational or public health programs and initiatives, as specified.

3) Requires public schools, serving any of grades 7 to 12, to allow a school-based health center to make internal and external condoms available and easily accessible to pupils at the school-based health center site.

4) Prohibits a retail establishment from refusing to furnish nonprescription contraception to a person solely on the basis of age by means of any conduct, including, but not limited to, requiring the customer to present identification for purposes of demonstrating their age, unless the contraception is otherwise subject to restriction on the basis of age. Specifies that penalties do not apply for non-compliance.

Comments

1) *Need for this bill.* According to the author " By requiring free condoms in all California high schools, we are empowering the youth who decide to become sexually active to protect themselves and their partners from STIs, while also removing barriers that potentially shame them and lead to unsafe sex. Further, requiring the Family PACT program to cover HPV vaccinations for ages 12-18 will decrease instances of patients delaying vaccination or becoming discouraged after being turned away. These programs can instill safe sexual habits among youth, protecting themselves now and into adulthood."

2) *California Healthy Youth Act.* The CHYA took effect in 2003 and was initially known as the Comprehensive Sexual Health and HIV/AIDS Prevention Education Act. Originally, the act LEAs to provide comprehensive sexual health education in any grade, including kindergarten, so long as it consisted of age-appropriate instruction and used instructors trained in the appropriate courses. Beginning in 2016 with AB 329 (Weber, 2015), the act was renamed the CHYA and, for the first time, required LEAs, excluding charter schools, to provide comprehensive sexual health education and HIV prevention education to all students at least once in middle school and at least once in high school. Charter schools must also provide that same instruction. From its inception in 2003 through today, the CHYA has always afforded parents the right to opt their child out of a portion, or all, of the instruction and required LEAs to notify parents and guardians of this right. Parents and guardians can exercise this right by informing the LEA in writing of their decision.

3) *Comprehensive sexual health education in lower grades.* Comprehensive sexual health education in lower grades has always been, and remains, optional. Under existing law, for grades 6 and below, an LEA must "opt-in" to offer that instruction to students. The LEA is then required by law to notify parents and guardians of their right to "opt-out" their child, whether in part or completely. All instruction and materials in grades K–6 must meet the instructional criteria or baseline requirements of the CHYA and the content that is required in grades 7–12 may be also be included in an age-appropriate way in earlier grades.

4) *2019 Revision of the Health Education Framework.* On May 8, 2019, the State Board of Education (SBE) officially adopted the 2019 Health Education Curriculum Framework for California Public Schools (the Health Education Framework) after over two years of development. The Health Education Framework is aligned to the 2008 California Health Education Content Standards, which support the development of knowledge, skills, and attitudes in eight overarching standards: (1) essential health concepts; (2) analyzing health influences; (3) accessing valid health information; (4) interpersonal communication; (5) decision making; (6) goal setting; (7) practicing health-enhancing behaviors; and (8) health promotion in six content areas of health education, including sexual health.

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

According to Assembly Appropriations Committee, "Ongoing Proposition 98 General Fund costs, of an unknown amount but potentially in the low millions of dollar annually, to schools to purchase condoms and inform students of the

condoms' availability annually. One-time costs, of an unknown amount, to buy and install tamper-proof dispensers in certain situations and to post a notice with certain information. Costs ultimately would depend on how many condoms schools make available and the number of schools installing tamper-proof dispensers. According to the California Department of Education, 1.9 million students enrolled in grades nine through 12 in over 4,000 schools in the 2022-23 school year. According to Planned Parenthood, external condoms usually cost less than $1 each if bought in packs of 12 or more on the private market. Internal condoms cost significantly more. The California Department of Public Health (CDPH) provides discounted rates to certain entities of external condoms, which are $100 per 1,000, and internal condoms, which are $730 per 500. Tamper-proof condom dispensers tend to cost in the low hundreds of dollars each. If each school serving students in grades nine through 12 provided 1,000 external condoms and 500 internal condoms at the CDPH rates, and one tamper-proof dispenser, costs would total $4 million statewide. Costs could be less or more depending on the number of condoms provided, the cost of those condoms, and the locations of those condoms. If the Commission on State Mandates (CSM) determines the bill's requirements to be a reimbursable state mandate, the state would need to reimburse these costs to local educational agencies or provide funding through the K-12 Mandate Block Grant. State law requiring schools to provide free menstrual products recently was determined by the CSM to be a state mandated cost and the cost of the mandate was added to the K-12 Mandate Block Grant. Ongoing General Fund costs of an unknown amount, potentially in the low tens of millions of dollars, for FPACT programs to provide coverage for immunization against HPV to certain individuals. Costs would ultimately depend on the number of individuals accessing the benefit. If FPACT programs applied to the federal Vaccines for Children program, these costs would be largely offset by a 90% federal match."

SUPPORT: (Verified 10/20/23)

Adolescent Health Working Group (co-source)
Black Women for Wellness Action Project (co-source)
Citizens for Choice (co-source)
Essential Access Health (co-source)
Generation Up (co-source)
Unite for Reproductive & Gender Equity (co-source)
Access Reproductive Justice
ACLU California Action
ACT for Women and Girls
Aids Healthcare Foundation
Alameda County Board of Supervisors

American College of Obstetricians and Gynecologists District IX
California Academy of Family Physicians
California Coalition for Youth
California Faculty Association
California Federation of Teachers
California Health+AdvocatesCalifornia Nurse Midwives Association
California School-Based Health Alliance
California Teachers Association
California Transgender Advisory Council - Office of Lieutenant Governor
California Women's Law Center
Capslo the Center for Health & Prevention
Coachman Moore and Associates
Community Clinic Association of Los Angeles County
DPA Health
Feminist Majority Foundation
Genders & Sexualities Alliance Network
GLIDE
Los Angeles LGBT Center
NARAL Pro-choice California
National Center for Youth Law
National Harm Reduction Coalition
National Health Law Program
Planned Parenthood Affiliates of California
Radiant Health Centers
Rainbow Pride Youth Alliance
Realistic Education in Action Coalition to Foster Health
San Francisco Aids Foundation
The Los Angeles Trust for Children's Health
Training in Early Abortion for Comprehensive Health Care
UCLA Bixby Center on Population and Reproductive Health
Women's Foundation of California, Dr. Beatriz Maria Solis Policy Institute
Women's Health Specialists

OPPOSITION: (Verified 10/20/23)

California Family Council
California Policy Center

ARGUMENTS IN SUPPORT: According to the California School-Based Health Alliance writes:

> More than 325,000 Californians were infected with syphilis, chlamydia, or gonorrhea in 2019. Young people, and in particular youth of color, are disproportionately impacted. Statewide data indicate over half of all STIs in the state are experienced among California youth ages 15 – 24 years old. Young people in this age group make up more than five out of every 10 chlamydia cases in California, and more than 87% are youth of color. Condoms are an effective tool to reduce STI transmission, but condom use among sexually active teens has declined over the last decade. The CDC's Youth Risk Behavior Surveillance System shows that in 2019, an average of 20% of California high school students were sexually active and 47% of those students did not use condoms during their last sexual intercourse. Teens have long reported facing multiple barriers to accessing condoms that deter them from seeking and securing the resources they need to protect themselves against STIs and unintended pregnancy. When barriers remain, youth with low-incomes are often left without the option to regularly utilize condoms to help protect their health and prevent an unintended pregnancy from occurring.

ARGUMENTS IN OPPOSITION: According to the California Family Council writes:

> For the last decade or more this legislative body has been pushing condoms as the solution to sexually transmitted infections spreading among our youth. As the STI infection rate continued to rise, so did the insistence on easier access to condoms and information about safe sex at younger and younger ages. This was the whole argument surrounding the CA Healthy Youth Act passed in 2015, which mandates comprehensive sex education in every school district. Now in 2023, we have an STI epidemic on our hands. According to the California Department of Public Health, STIs are at epidemic levels. A 2020 report showed a 320% increase in syphilis over the past 10 years. Gonorrhea is up 190 percent. Despite these numbers, you still insist telling kids condoms will protect them. Why? Did you know condoms don't protect people from STIs such as herpes, genital warts, syphilis, and monkeypox, which can spread by skin-to-skin contact? Don't you think it is time to tell young people the truth, that those with the most fulfilling and healthy sex lives are those who treat sex as a special and intimate act to be shared in an opposite-sex, monogamous marriage? STIs can only thrive in a hook-up culture where sex is meaningless and done for fun with multiple

partners. Handing out free condoms perpetuates such a culture. Please consider different options.

GOVERNOR'S VETO MESSAGE:

This bill requires all public high schools to make free condoms available to students and would prohibit retailers from refusing to sell condoms to youth.

While evidence-based strategies, like increasing access to condoms, are important to supporting improved adolescent sexual health, this bill would create an unfunded mandate to public schools that should be considered in the annual budget process.

In partnership with the Legislature, we enacted a budget that closed a shortfall of more than $30 billion through balanced solutions that avoided deep program cuts and protected education, health care, climate, public safety, and social service programs that are relied on by millions of Californians. This year, however, the Legislature sent me bills outside of this budget process that, if all enacted, would add nearly $19 billion of unaccounted costs in the budget, of which $11 billion would be ongoing.

With our state facing continuing economic risk and revenue uncertainty, it is important to remain disciplined when considering bills with significant fiscal implications, such as this measure.

ASSEMBLY FLOOR: 65-11, 9/7/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Davies, 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, Waldron, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Megan Dahle, Dixon, Flora, Vince Fong, Gallagher, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta

NO VOTE RECORDED: Chen, Essayli, Hoover, Wallis

Prepared by: Kordell Hampton / ED. / (916) 651-4105
10/25/23 10:52:43

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

SENATE RULES COMMITTEE SB 557
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

VETO

Bill No: SB 557
Author: Limón (D)
Amended: 5/18/23
Vote: 27

SENATE GOVERNMENTAL ORG. COMMITTEE: 14-0, 3/28/23
AYES: Dodd, Wilk, Alvarado-Gil, Ashby, Bradford, Glazer, Jones, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto
NO VOTE RECORDED: Archuleta

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: 80-0, 9/12/23 - See last page for vote

SUBJECT: California Prompt Payment Act: nonprofit organizations

SOURCE: Author

DIGEST: This bill expands the definition of a grant for the purposes of the California Prompt Payment Act (PPA) requiring timely payments to include nonprofits by changing what is considered a grant and sets a specific monetary threshold of $250 or 5% of the invoiced amount (whichever is lower) for when a state agency can dispute a bill related to property or services delivered.

ANALYSIS:

Existing law:

1) Requires, under the PPA, state agencies that award grants or that acquire properties or services pursuant to a contract to make timely payments pursuant to the grant or contract, as specified.

2) Provides that if a state agency or the State Controller (Controller) fails to take certain timely actions, and payment is not issued within 45 calendar days from the state agency receipt of an undisputed invoice, the state agency or the Controller must, as applicable, pay certain penalties.

3) Provides that nonprofit organizations shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than $500,000.

4) Authorizes a state agency to dispute for reasonable cause an invoice, refund request, or claim for Medi-Cal reimbursement – as specified.

5) Requires state agencies to provide the Department of General Services (DGS) with a report on late payment penalties that were paid by that state agency during the preceding fiscal year, as specified.

6) Defines "grant" to mean a signed final agreement between any state agency and a local government agency or organization authorize to accept grant funding for victim services or prevention programs administered by any state agency, or restoration activities performed by a resource conservation district.

7) Defines "reasonable cause" to include a determination by a state agency that there is a discrepancy between the invoice or claimed amount and either the claimant's actual delivery of property or services to the state or the state's acceptance of those deliveries.

This bill:

1) Expands, for the purposes of the PPA, the definition of "grant" to also include a signed final agreement between any state agency and a nonprofit organization.

2) Amends, for the purposes of the PPA, the definition of "nonprofit organization" to mean an organization that qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

3) Revises the conditions of "reasonable cause" to include a discrepancy of an amount greater than $250 or 5% of the invoiced amount, whichever is lesser, between the invoice or claimed amount and either the claimant's actual delivery of property or services to the state or the state's acceptance of those deliveries.

4) Removes the provision that nonprofit organizations shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than $500,000.

5) Requires DGS to identify the total number and dollar amount of late payment penalties paid to nonprofit organizations.

6) Requires DGS to prepare a report separately listing the number and total dollar amount of all late payment penalties paid to nonprofit organizations.

Background

Purpose of this Bill. According to the author's office, "California nonprofits are a bridge to our local communities, ensuring that critical services are accessible to residents while contributing to their regional, social, and economic growth. SB 557 ensures that nonprofits receive grants and contract payments from the state, in a timely manner, for the betterment of their communities."

California's Prompt Payment Act. Under the PPA, state agencies that acquire property or services pursuant to a contract with a business are required to make payment on the date required by the contract, or within 45 days of the state agency's receipt of an undisputed invoice. If this requirement is not met, state agencies must automatically calculate and pay appropriate late payment penalties as specified in Government Code Section 927, et seq. Late payments may occur for a variety of reasons, including administrative decisions relating to cash flow, bond sales, or delays in meeting conditions set forth in federal legislation.

Existing law specifies that penalties paid by a state agency to a certified small business, nonprofit organization, nonprofit public benefit corporation, and a small business or nonprofit that provides services or equipment under Medi-Cal shall be calculated at a rate of 10% above the United State Prime Rate on June 30th of the prior year.

Since 2013, DGS has overseen the PPA to ensure that government agencies, in a timely manner, pay their contracts awarded to a certified small business or nonprofit. The PPA indicates that nonprofits are only eligible to receive a penalty payment if the grant or contract awarded is an amount less than $500,000. Hence,

the PPA only applies to a limited set of grants, excluding numerous nonprofits that provide essential services to California communities.

This bill expands the current definition of "grant" in existing law to also mean a signed final agreement between any state agency and a nonprofit organization. Additionally, this bill removes the cap of only paying a late penalty to a nonprofit organization if the contract is for $500,000 or less. This bill requires state agencies to include penalty payments made to nonprofits in their existing annual penalty payment reporting to DGS.

This bill alters the conditions under which a state agency can dispute an invoice, refund request, or claim for Medi-Cal reimbursement. The revised condition allows a dispute if there is a discrepancy greater than $250 or 5% of the invoiced amount (whichever is lower) between the amount invoiced and the value of the property or services actually delivered or accepted. This provides a specific threshold for when disputes can be initiated.

Related/Prior Legislation

SB 336 (Umberg, 2023) requires DGS to establish a process for nonprofits to negotiate a state standard negotiated cost agreement and requires state agencies administering grant programs to use the same terms as contained in a grantee's existing negotiated indirect cost rate agreement policies approved by the federal government, or the same terms contained in the state standard negotiated cost agreement, as specified. (Pending on the Assembly Inactive File)

AB 590 (Hart, Chapter 535, Statutes of 2023) authorized state agencies to advance a payment up to 25% of the total grant to a nonprofit organization, as specified.

AB 1776 (Gallagher, Chapter 455, Statutes of 2022) added resource conservation districts to the list of entities entitled to a late payment penalty from the state, as specified, and exempts contracts with those districts from specified extension provisions, as specified.

AB 619 (Fong, 2023) authorizes nonprofits that provide services during a state of emergency to request the state agency to allow that nonprofit to modify the method in which it provides those services so long as the purpose of the contract is served, as specified. (Held on the Senate Appropriations Committee Suspense File)

AB 860 (Valencia, 2023) imposes minimum requirements for the administration of covered grants that meet maximum size and duration requirements and are available to nonprofit organizations, as specified. (Held on the Senate Appropriations Committee Suspense File)

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

According to the Assembly Appropriations Committee, annual costs of approximately $75,000 to DGS for additional staff resources to modify administration of contracts under the PPA, including determining whether a discrepancy amount qualifies as "reasonable cause." DGS also anticipates one-time costs of $300,000 over two years for a limited term position to interpret and implement guidance to other state agencies, including updates to the State Contracting Manual and training state procurement professionals (Service Revolving Fund). Unlike state contracts, DGS does not have a policy or oversight role with respect to grants.

For its part, the Department of Justice anticipates costs of approximately $249,000 in fiscal year 2023-24 and $447,000 annually thereafter to its Enterprise Services Bureau to update and maintain invoice and payment processing for information technology contracts (General Fund). It is unknown whether other impacted state agencies may anticipate similar resource needs for administration of contracts and grants.

Costs of an unknown, but potentially significant, amount in penalty payments incurred by state agencies, as this bill expands the scope of grants covered by the PPA generally and the scope of contracts and grants eligible for the penalty payment, including entities entitled to the higher penalty rate.

SUPPORT: (Verified 10/10/23)

California Association of Nonprofits
California Coalition for Community Investment
California Council of Community Behavioral Health Agencies
California Family Resource Association
California Partnership to End Domestic Violence
California ReLeaf
Center for Nonprofit Management
Child Abuse Prevention Center
Children's Institute
Community Alliance with Family Farmers
Community Bridges
El Concilio
Fresno Building Healthy Communities
HealthRight 360
Inland Empire Community Collaborative
Inland Southern California United Way

Koreatown Youth + Community Center
Meals on Wheels California
Nonprofit Finance Fund
People Assisting the Homeless
Rural Community Assistance Corporation
Santa Cruz Volunteer Center
Self-Help Enterprises
TreePeople
United Way California Capital Region
United Ways of California

OPPOSITION: (Verified 10/10/23)

None received

ARGUMENTS IN SUPPORT: Supporters of this bill write that this bill is "part of the California Nonprofit Equity Initiative that our organizations, along with more than 500 other nonprofit community leaders, are supporting to level the playing field for nonprofits. Improving how state government contracts with nonprofits is a question of equity – for our most vulnerable communities and for the nonprofits that serve them. Nonprofits are a powerful force for equity. The state relies on nonprofits to help put critical policies into action, partnering with community organizations to help the homeless, build affordable housing, respond to the impacts of climate change, support domestic violence victims, and in countless ways improve the lives of vulnerable members of our communities. To succeed, nonprofits need contracting terms that set us up to partner effectively."

Further, supporters state that "[a]ligned with the Governor's 'California for All' vision, SB 557 responds to the impact the pandemic has had on our communities, the need to address equity and inequality in access to state resources, and the imperative to support strong and varied community-based organizations to address increased need. Passing SB 557 and the rest of the California Nonprofit Equity Initiative will strengthen the essential partnership between the state and nonprofits and our mutual efforts to deliver the highest quality services to the people of California."

GOVERNOR'S VETO MESSAGE:

> This bill would extend Prompt Payment Act requirements and penalties to all grants to nonprofit organizations and makes nonprofit organizations eligible for the higher penalty rate paid to small businesses, regardless of the

size of the grant or contract. Additionally, for disputed invoices regarding the quantity of goods or services delivered to or accepted by the state, this bill would provide that the dispute suspends the requirement to pay within 45 days only if the disputed portion exceeds five percent of the invoiced amount or $250, whichever is less. This provision would cover all state contractors and grantees, not just nonprofit organizations. I appreciate the role nonprofit organizations play in supporting our state's communities and economy, and I thank the author for the continued commitment to this critical sector. However, being able to suspend the 45-day requirement in a dispute over the quantity of goods or services provided is essential to the state's fiduciary responsibility and accountability as a distributor of public funds. Moreover, establishing a minimum discrepancy amount to suspend the 45-day requirement could pressure state employees to pay invoices with missing documentation to avoid having to report a late payment penalty. My Administration remains committed to working with nonprofit organizations to support the sector's ability to deliver programs and support communities, while also balancing the need for accountability for state funds. I look forward to working with stakeholders on the implementation of related efforts, and I encourage the author and stakeholders to continue working with my administration on the overarching goals of this bill, while addressing accountability concerns.

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: Brian Duke / G.O. / (916) 651-1530
10/19/23 11:12:58

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

Office of Senate Floor Analyses
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VETO

Bill No: SB 565
Author: Caballero (D), et al.
Amended: 9/8/23
Vote: 27

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

SENATE FLOOR: 32-8, 9/14/23
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: 62-15, 9/13/23 - See last page for vote

SUBJECT: Taxation: filing

SOURCE: Author

DIGEST: This bill requires the Franchise Tax Board to provide a free tax return preparation program to qualified individuals.

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 (EITC) 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 (CalEITC) 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 six 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 this 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 Revenue and Taxation Code Section 19587 that would be added by this bill.

11) Repeals this bill 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 required 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) would have directed 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 would have allowed the FTB to develop a smaller form that may be filed in its place. The bill would also have exempted the FTB from existing contracting laws and specified approvals and oversight in administration relating to the form. Governor Newsom also vetoed AB 1002.

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 10/20/23)

All Home
Economic Security Project Action

OPPOSITION: (Verified 10/20/23)

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."

GOVERNOR'S VETO MESSAGE:

> This bill would require the Franchise Tax Board (FTB) to provide a free tax return preparation program to individuals eligible for the California Earned Income Tax Credit, the Young Child Tax Credit, and the Foster Youth Tax Credit. This bill also requires the California Department of Social Services and the Department of Health Care Services to exchange data with the FTB for purposes of administering this free tax return preparation program.
>
> While I am supportive of the author's goal of reducing barriers to tax filing and ensuring eligible families receive credits, this bill would result in ongoing General Fund costs in the millions of dollars to implement.
>
> In partnership with the Legislature, we enacted a budget that closed a shortfall of more than $30 billion through balanced solutions that avoided deep program cuts and protected education, health care, climate, public safety, and social service programs that are relied on by millions of Californians. This year, however, the Legislature sent me bills outside of this budget process

that, if all enacted, would add nearly $19 billion of unaccounted costs in the budget, of which $11 billion would be ongoing.

With our state facing continuing economic risk and revenue uncertainty, it is important to remain disciplined when considering bills with significant fiscal implications, such as this measure.

ASSEMBLY FLOOR: 62-15, 9/13/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Flora, 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, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Megan Dahle, Davies, Dixon, Essayli, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Bauer-Kahan, Chen, Jim Patterson

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
10/25/23 10:52:44

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

Office of Senate Floor Analyses
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VETO

Bill No: SB 582
Author: Becker (D)
Amended: 9/7/23
Vote: 27

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
AYES: Eggman, Nguyen, Glazer, Grove, Hurtado, Limón, Menjivar, Roth, Wahab, Wiener
NO VOTE RECORDED: Gonzalez, Rubio

SENATE FLOOR: 40-0, 9/14/23
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: 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 (APIs) and electronic disclosure of test results.

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 the Department of Managed Health Care (DMHC) or the Department of Insurance (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.

GOVERNOR'S VETO MESSAGE:

> This bill would require the CHHS Data Exchange Framework (DxF) stakeholder advisory group to consider new standards for including EHR vendors in the DxF, establish standards for EHR vendors' fees, and authorize CHHS to oversee and enforce EHR vendors for noncompliance with federal standards.
>
> My Administration spearheaded the creation of the DxF to accelerate and expand the exchange of health information to provide safe, effective, whole person care to Californians in real time. Given the ongoing efforts by CHHS and the Center for Data Insights and Innovation to stand up the DxF, this bill is premature. The state should prioritize implementation of this important work before we consider modifications.

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
10/12/23 10:55:58

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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VETO

Bill No: SB 596
Author: Portantino (D)
Amended: 9/7/23
Vote: 27

SENATE EDUCATION COMMITTEE: 5-0, 4/12/23
AYES: Newman, Cortese, Glazer, McGuire, Smallwood-Cuevas
NO VOTE RECORDED: Ochoa Bogh, Wilk

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: 30-8, 5/24/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Glazer, Gonzalez, Hurtado, Laird, 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
NO VOTE RECORDED: Eggman, Limón

SENATE FLOOR: 30-8, 9/12/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dodd, Durazo, 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
NO VOTE RECORDED: Caballero, Eggman

ASSEMBLY FLOOR: 65-8, 9/11/23 - See last page for vote

SUBJECT: School employees: protection

SOURCE: Author

DIGEST: This bill specifies that a person who subjects a school employee to threats or harassment while the employee is away from a schoolsite or after school hours for reasons related to the employee's course of duties is guilty of a misdemeanor.

ANALYSIS:

Existing law:

1) Requires any parent, guardian, or other person whose conduct in a place where a school employee to be in the course of his or her duties materially disrupts classwork or extracurricular activities or involves substantial disorder is guilty of a misdemeanor.

2) Provides the penalty for violating 1) above is as follows:

   a) Upon the first conviction, by a fine of not less than $500 and not more than $1,000, or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment.

   b) Upon a second conviction, by imprisonment in a county jail for a period of not less than 10 days, and not more than one year, or by both imprisonment and a fine not exceeding $1,000. The defendant shall not be released on probation, or for any other basis until he or she has served not less than 10 days in a county jail.

   c) Upon a third or subsequent conviction, by imprisonment in a county jail for a period of not less than 90 days, and not more than one year, or by both imprisonment and a fine not exceeding $1,000. The defendant shall not be released on probation, or for any other basis until he or she has served not less than 90 days in a county jail.

This bill:

1) Expands the misdemeanor offense which makes it unlawful for an adult to materially disrupt or cause substantial disorder to classwork or extracurricular activities to include causing substantial disorder at any meeting of the

governing board of a school district, the governing body of a charter school, a county board of education, or the State Board of Education (SBE).

2) Makes it a misdemeanor for any adult to subject a school employee to harassment or to make a credible threat against that employee or a member of their family while the employee is away from a school site or after school hours for reasons related to the employee's course of duties, as specified, and eliminates the prohibition on release prior to the minimum period of incarceration applicable to a second conviction, as provided.

3) Specifies that the provisions do not apply to the conduct of a student with exceptional needs if it is determined that the conduct was caused by the student's disability. Defines "credible threat" as a verbal, written, or electronic communication, a communication implied by a pattern of conduct, or a combination of a verbal, written, or electronic communication and conduct, made with the specific intent to place the person that is the target of the communication in reasonable fear for their safety or the safety of their family, that, on its face and under the circumstances in which it is made, expresses serious intent to commit an act of unlawful violence, and is made by an individual that possesses the apparent ability to carry out the act so as to cause the person who is the target of the communication to reasonably be in a sustained state of fear for their safety or the safety of their family. A credible threat does not require the individual making the communication to actually carry out the act. Constitutionally protected activity is not included within the meaning of credible threat.

4) Defines "harassment" as a knowing and willful course of conduct directed at a specific person that seriously alarms, torments or terrorizes the person, and that serves no legitimate purpose. The course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person.

Comments

1) *Need for the bill.* According to the author, “Too many teachers are being intimidated and harassed for teaching in accordance with state standards. These incidents do not solely occur while teachers are at their respective school sites; some receive threats in off campus settings, including on social media platforms. Actions that incite fear amongst educators who are adhering to state standards are counterproductive to efforts to foster safe, inclusive and supportive classroom environments. SB 596 will ensure that educators can continue to help their students thrive unencumbered by fear and intimidation.”

2) *Violence against educators and school personnel is contributing to the educator workforce shortage.* While much of the focus on education during the pandemic has involved the effects on children in schools, it is also having a negative impact on teachers, administrators, social workers, psychologists and school staff.

   The American Psychological Association (APA) administered an online survey to teachers and other school personnel during the 2020-2021 school year. The sample of 14,966 participants includes 9,370 teachers, 860 administrators, 1,499 school psychologists and social workers and 3,237 other school staff members. Among the survey's troubling findings were the following:

   a) Rates of interest in quitting their careers or transferring schools are troubling and high across the board, ranging from 29% to 34% for school staff, administrators, and mental health personnel. Almost half of all teachers reported they desire or plan to quit or transfer their jobs due to concerns about school climate and school safety.

   b) One-third of surveyed teachers reported they experienced at least one incident of verbal and/or threatening violence from students during COVID (e.g., verbal threats, cyber bullying, intimidation, sexual harassment). Over 40% of school administrators reported verbal or threatening violence from parents during COVID.

   c) Many teachers, administrators, and other school personnel described the violence they face as on-going and pervasive. One educator described their experiences, "I have been physically assaulted multiple times by students in the building and they know that not only is there no one to stop them, but there will be no consequences either. I ended up in the hospital the last time it happened."

   Further, a recently published report by the UCLA Center for the Transformation of Schools, "Voices from the Classroom: Developing a Strategy for Teacher Retention and Recruitment," states the following:

   > Burnout from stress is the top reason current teachers say they are considering leaving, with political attacks on teachers the next highest-ranking factor. Workload, low pay, student apathy and behavioral issues, and the lack of support from district administrators contribute to the stress felt by teachers.

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

According to the Assembly Appropriations Committee, unknown costs to counties for increased incarceration. Actual costs would depend on the number of people violating the new and expanded crimes contained in this bill and jail time awarded to convicted individuals in those cases.

The average annual cost to incarcerate a defendant in county jail is approximately $29,000. California county jails are increasingly overcrowded – particularly since the enactment of the Realignment Act in 2011. Jail overcrowding since 2011 has resulted in court-mandated population caps and increased rates of inmate violence and death. Overcrowding has also resulted in significant state funding for additional jail construction. Although new crimes are not considered reimbursable state mandates pursuant to Proposition 30 (2012), overcrowding in county jails creates cost pressure on the General Fund because the state has historically granted new funding to counties to offset overcrowding after the 2011 Realignment Act.

SUPPORT: (Verified 10/17/23)

California Association of Joint Powers Authorities
California Federation of Teachers AFL-CIO
California School Employees Association
California Teachers Association
Glendale Teachers Association
Glendale Unified School District
GlendaleOUT
Los Angeles County Office of Education
Torrance Unified School District

OPPOSITION: (Verified 10/17/23)

ACLU California Action
Chico First
Chico Stewards for Parks and Waterways
Defendingconstitutionalrights.com
Our Duty
Perk Advocacy

ARGUMENTS IN SUPPORT: The California Teachers Association writes, "Our CTA members believe school employees should be safe from aggressive and violent behaviors as well as physical, verbal, and psychological abuse. There are documented increases in the number confrontational activities faced by school

employees. We believe all efforts to establish practices and protocols guaranteeing the safety of school employees must be immediate and far-reaching. Such efforts benefit the school community by impacting teacher retention and recruitment and ensuring appropriate conduct within the community-at-large."

ARGUMENTS IN OPPOSITION: The ACLU California Action writes, "This bill would create a new crime for threats or harassment against a school employee while away from a school site. While we believe teachers should be protected on and off campus, we see existing law as adequate to fulfill this goal without the need for a new crime."

GOVERNOR'S VETO MESSAGE:

> This bill would make it a misdemeanor to cause substantial disorder at any meeting of the governing board of a school district, the governing body of a charter school, a county board of education, or the State Board of Education.
>
> This bill also specifies that a person who subjects a school employee to threats or harassment while the employee is away from a school site or after school hours for reasons related to the employee's course of duties would be guilty of a misdemeanor.
>
> Credible threats of violence and acts of harassment - whether directed against school officials, elected officials, or members of the general public - can already be prosecuted as crimes. As such, creating a new crime is unnecessary.
>
> The tenor of our country's political conversations is alarming, leading to caustic atmospheres at local school board meetings and politicization of our kids' education in an effort to score political points. Nevertheless, we need to be cautious about exacerbating tensions by implementing additional laws that can be perceived as stifling parents' voices in the decision-making process. We don't need more gas on this fire - we need more grace, more respectful conversations, and more protection of constitutional rights for all people, especially for those with whom we disagree.
>
> No school official should be subject to threats or harassment for doing their job, period. I encourage school officials to work closely with local law enforcement to use the laws already on the books to ensure the safety and security of our community's educators and governing board members, both while carrying out their school duties on school premises and while away from school sites.

ASSEMBLY FLOOR: 65-8, 9/11/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Dixon, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, 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: Megan Dahle, Essayli, Vince Fong, Gallagher, Mathis, Jim Patterson, Joe Patterson, Ta
NO VOTE RECORDED: Alanis, Chen, Davies, Flora, Lackey, Sanchez, Waldron

Prepared by: Ian Johnson / ED. / (916) 651-4105
10/25/23 13:59:31

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

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VETO

Bill No: SB 619
Author: Padilla (D), et al.
Amended: 9/1/23
Vote: 27

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: 37-0, 5/30/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Dahle, Grove, Nguyen

SENATE ENERGY, U. & C. COMMITTEE: 14-0, 9/12/23
AYES: Bradford, Dahle, Ashby, Becker, Dodd, Durazo, Eggman, Gonzalez, Min, Rubio, Seyarto, Skinner, Stern, Wilk
NO VOTE RECORDED: Caballero, Grove, McGuire, Newman

SENATE FLOOR: 39-0, 9/13/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 78-0, 9/7/23 - See last page for vote

SUBJECT: State Energy Resources Conservation and Development Commission: certification of facilities: electrical transmission projects

SOURCE: Author

DIGEST: This bill authorizes an electrical corporation that applies to the California Public Utilities Commission (CPUC) to authorize construction of a high voltage electrical transmission line, rated at 138 kilovolts (kV) or greater, to apply to the California Energy Commission (CEC) for certification of the facility pursuant to the California Environmental Quality Act (CEQA), instead of the CPUC conducting the CEQA review. This bill provides that the CEC certification authorizes the project to be eligible for the CEQA judicial streamlining afforded to Environmental Leadership Development Projects and the CEC's "Opt-in" permitting process.

ANALYSIS:

Existing law:

1) 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)

2) Prohibits an electrical corporation from beginning 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 requires, or will require, its construction. (Public Utilities Code §1001)

3) Establishes the Jobs and Economic Improvement Through Environmental Leadership Act of 2021 which authorizes the Governor, until January 1, 2032, to certify environmental leadership development projects (ELDPs) that meet specified requirements for certain streamlining benefits related to the CEQA. Repeals the Act on January 1, 2032. (Public Resources Code §21178 *et seq*.)

4) Establishes the AB 205 (Committee on Budget, Chapter 61, Statutes of 2022) "Opt-in" permitting which authorizes persons proposing eligible facilities,

including electrical transmission lines carrying electricity from certain other facilities that are located in the state to a point of junction with any interconnected electrical transmission system, to file applications for certification, on or before June 30, 2029, with the CEC to certify sites and related facilities. Provides that the CEC's certification of sites and related facilities is in lieu of any permit, certificate, or similar document required by any state, local, or regional agency, except as specified, including the CPUC permit requirements. (Public Resources Code §25545 *et seq*.)

5) Deems the sites and related facilities certified by the CEC as ELDPs eligible for the judicial streamlining of such projects. (Public Resources Code §25545.13)

This bill:

1) Expands the facilities eligible to be certified as ELDPs as part of the AB 205 "Opt-in" permitting by the CEC to include electrical transmission projects.

2) Requires an applicant applying for certification of an electrical transmission project to take certain actions, including to avoid or minimize significant environmental impacts in any disadvantaged community.

3) Authorizes an electrical corporation that files an application with the CPUC to authorize the new construction of any electrical transmission facility rated at 138 kV or greater to simultaneously submit to the CEC an application for certification of the facility as an ELDP and AB 205 "Opt-in" permitting. Prohibits the CEC from considering the necessity of the electrical transmission facility, thereby retaining that review at the CPUC. Authorizes the CEC to consider alternative substation locations or routing of transmission lines.

4) Authorizes the CEC to recover from the electrical corporation the reasonable administrative costs incurred from evaluating an application.

5) Provides that an electrical corporation may file an application by no later than January 1, 2032.

6) Provides that the CEC's certification of a facility proposed by an electrical corporation satisfies and replaces the CPUC's obligations under CEQA with respect to that facility.

7) Prohibits the CPUC from approving an application for a Certificate of Public Convenience and Necessity (CPCN) until after the CEC has issued a decision on environmental review certification of the proposed facility.

Background

1) *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 Section 1001, including transmission projects. The CPUC reviews permit applications under two concurrent processes: (1) an environmental review pursuant to CEQA, and (2) the review of project need and costs pursuant to Public Utilities Code Section 1001 and General Order (GO) 131-D (CPCN).

2) *Environmental review.* CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. There are three general buckets of CEQA-eligible projects: exempted from CEQA, subject to a negative declaration or mitigated negative declaration, or subject to environmental impact review (EIR). If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration or mitigated negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR. CEQA requires state and local lead agencies to establish time limits of one year for completing and certifying EIRs and 180 days for completing and adopting negative declarations. These limits are measured from the date on which an application is received and accepted as complete by the lead agency. Agencies may provide for a reasonable extension in the event that compelling circumstances justify additional time and the project applicant consents.

3) *CPUC permitting and environmental review.* Parallel to the CEQA review, the CPUC reviews the electric IOU's application for a CPCN or a Permit to the Construct (PTC), depending on the size of the project. The CPUC's decision on the CPCN or PTC cannot be issued until the environmental review is complete. Most of the CPCN/PTC process is outlined in CPUC GO 131-D.

4) *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 Section 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 one-two 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.

5) *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 CPUC has an active rulemaking proceeding to implement the changes adopted in SB 529.

6) *Transmission Outlook.* In 2021, the California Independent System Operator (CAISO) issued 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 (De León, Chapter 312, Statutes of 2018) clean energy objectives reliably and cost-effectively. The CAISO identified the system needs by mapping resources to the appropriate regions, identifying the transmission additions necessary to add those resources to the grid, and then examining the need to deliver those resources over the bulk transmission system. 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. Written in partnership with the CPUC and the CEC, the outlook estimates that more than $30 billion in new transmission capacity will be needed by 2040.

7) *AB 205 (Committee on Budget, Chapter 61, Statutes of 2022).* Among its many provisions, AB 205 authorized the CEC to establish a new certification and permitting program for eligible non-fossil-fueled power plants and related facilities to optionally seek certification from the CEC, largely in lieu of local government permitting. The CEC adopted emergency regulations to implement a new optional program (opt-in) that authorizes the CEC to accept applications seeking certification of certain types of non-fossil-fueled energy generating facilities, energy storage facilities, transmission facilities connected to these generation facilities, and other related facilities. The emergency regulations set forth the process for submitting opt-in applications, reviewing applications, performing outreach, and considering whether to issue or deny a certification. As of April of this year, the CEC had officially received only one application to the AB 205 opt-in process for a wind project in Shasta County. The CEC has shared there are a few additional projects with applications in process. These projects are a mixture of battery energy storage, solar photovoltaic with battery energy storage, and geothermal projects, located in various parts of the state.

Comments

1) *Need for this bill.* This bill builds off the authority given to the CEC by AB 205 by additionally allowing an electrical corporation to apply to the CEC, not the CPUC as required by current law, for the environmental review of certain electrical transmission projects, subject to the 270-day decision timeframe found in AB 205. As such, this bill provides electrical corporations the option to select between the CPUC or CEC as their lead CEQA agency for these higher voltage transmission projects.

2) *CEQA and electric IOU transmission projects.* Only larger, high-voltage projects over 200 kV, which also require a CPCN, are consistently subject to complete CEQA review. According to CPUC data (collected by the Assembly Committee on Utilities & Energy this year), from 2012 to 2023, of a total 664 projects that required CPUC review: 608 projects were exempt from CEQA, 29 projects were approved via negative declaration or mitigated negative declaration, and 27 required an EIR. As such, over 90 percent of electric IOU transmission projects over the last decade were exempt from CEQA, not counting the thousands of projects < 50 kV that do not require any review from

the CPUC. Of the projects that had to go through a full EIR, over half were subject to federal environmental review; meaning, even if a specific project received a statutory exemption from CEQA, a federal environmental review would still be required. Therefore, efforts to offer CEQA streamlining impact only a small fraction of the needed transmission projects developed in California every year. However, given the potential transmission build-out expected per the CAISO 20-Year Transmission Outlook, it's very possible there may be an increasing number of transmission projects that require CEQA review.

3) *Expanding electric IOUs' permitting options.* If electric IOUs select the CEC CEQA review process, the projects are granted a 270 day administrative review timeline in exchange for lesser judicial streamlining, with legal challenges headed to the superior court, and with the additional project requirements in AB 205 related to workforce, greenhouse gas emissions reductions, and reduced impacts in disadvantaged communities. Such an option could increase exposure to litigation that may be more limited via the existing CPUC process which requires that legal appeals are taken directly to the Courts of Appeal or the California Supreme Court (Public Utilities Code §1756). According to the CPUC, the average transmission project that went through an EIR at the CPUC took approximately 29 months for a complete decision (CEQA and CPCN/PTC review) from the date the application was received; the average for all projects was 23 months. As such, the proposal in this bill may result in a few months of time savings. Nonetheless, the author and supporters of this bill, including many electric IOUs, contend a CEC CEQA review may be preferred over the CPUC's review, even as the CPUC retains the CPCN review process.

Related/Prior Legislation

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, Chapter 390, Statutes of 2023) required 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 required these state energy agencies to jointly develop an electrical transmission infrastructure development guidebook.

SB 420 (Becker, 2023) would have exempted construction of certain low-voltage electrical lines and associated equipment from the need to receive a discretionary permit from the CPUC. The bill was vetoed.

AB 205 (Committee on Budget, Chapter 21, Statutes of 2022) allows 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.

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

According to the Assembly Committee on Appropriations:

1) Costs to the CEC may be substantial, though the CEC's actual costs will depend on the number of applications for CEQA review of transmission projects the CEC receives, as well as the complexity of each of those projects. As an illustration of the magnitude of costs the CEC might face, the CEC provides the following range of costs for transmission lines of differing lengths: $2 million to $3.5 million for lines less than 50 miles, $3.5 million to $5 million for lines 50 miles to 100 miles and more than $5 million for lines over 100 miles. CEC cautions these cost ranges may increase, subject to various factors, such as whether a proposed line requires creation of a new corridor, the sensitivity of the environments the line will traverse and whether the line crosses federal lands.

   It is unclear whether existing law provides the CEC authority to charge a developer of a transmission project a fee to cover the CEC's cost to certify the project pursuant to CEQA.

2) The CPUC contends the bill will result in work beyond its existing workload, requiring three new permanent staff—two regulatory analysts ($210,000 annually) and one attorney ($274,000 annually)—to coordinate with the CEC staff, manage the increased complexity in the transmission project permitting process and support proposed decisions based upon CEC prepared CEQA-equivalent documentation (Public Utilities Commission Reimbursement Account). Presumably, this new workload, to the extent it occurs, will be offset by savings resulting from reduced CPUC workload associated with environmental permitting of proposed transmission lines.

SUPPORT: (Verified 10/13/23)

350 Humboldt: Grassroots Climate Action
Advanced Energy United
Bay Area Council
Building Owners and Managers Association
California Apartment Association
California Association of Winegrape Growers
California Building Industry Association
California Business Properties Association
California Business Roundtable
California Retailers Association
California State Association of Electrical Workers
California Trucking Association
California Wind Energy Association
Can Manufacturers Institute
Chamber of Commerce: California, Carlsbad, Chino Valley, Danville Area, Fremont, Greater Coachella Valley, Greater High Desert, Lake Elsinore Valley, Livermore Valley, Mission Viejo, Modesto, Murrieta Wildomar, Norwalk, Oceanside, Palm Desert Area, Palos Verdes Peninsula, Rancho Cordova Area, San Leandro, Santa Barbara South Coast, Santa Maria Valley, Simi Valley, Torrance Area, Walnut Creek, Vista, and Yuba-Sutter
Clean Air Task Force
Clean Power Campaign
Coalition of California Utility Employees
Elders Climate Action, NorCal Chapter
Elders Climate Action, SoCal Chapter
Electric Vehicle Charging Association
Gateway Chambers Alliance
Independent Energy Producers Association
Large-Scale Solar Association
Liberty Utilities
NAIOP of California
Pacific Gas & Electric Company
San Diego Community Power
Southern California Edison
Terra-Gen
The Chamber Newport Beach

OPPOSITION: (Verified 10/13/23)

Judicial Council of California

ARGUMENTS IN SUPPORT: According to the author:

> While the state has enacted some of the world's most aggressive climate goals its transition away from fossil fuels is being threatened by slow siting and permitting processes that delay critical transmission projects necessary to deliver clean energy to consumers.
>
> These long delays undermine reliability and lead to increased costs to ratepayers. SB 619 would expand the CEC's alternative opt-in certification process to ensure faster review of key projects without sacrificing critical economic and environmental analyses of those projects

ARGUMENTS IN OPPOSITION: In opposition to this bill, the Judicial Council of California opposes the expansion of the administrative and judicial streamlining benefits from the ELDP program. The Judicial Council of California contends that the 270 days limit to resolve CEQA challenges and appeals is an extremely tight timeline that is: (1) unworkable and unnecessary given the existing calendar preference for CEQA actions; (2) will likely impact other cases in the courts, pushing those cases to the back of the line; and (3) may not lead to a faster resolution of the entire case, as non-CEQA causes of actions are frequently brought together with CEQA claims.

GOVERNOR'S VETO MESSAGE:

> This bill would allow an electric investor-owned utility (IOU) that applies to the California Public Utilities Commission (CPUC) for a certificate or a permit authorizing the new construction of any electrical transmission project to separately apply to the California Energy Commission (CEC) for environmental review under the California Environmental Quality Act (CEQA).
>
> Building out the electric transmission system is critical for delivering clean electricity to customers from our growing portfolio of zero-carbon resources. While I share the author's goal to improve electric transmission permitting to expedite needed project development, decentralizing permitting between two agencies creates new coordination challenges, requires duplicative staffing, disrupts the sequencing of permitting workstreams and impedes the ability of either agency to consider the full scope of an electric transmission project.

Ensuring that a single agency can account for and mitigate both significant costs to electric ratepayers and environmental impacts can lead to better results for Californians.

I welcome further partnership with the Legislature to develop targeted policies that would accelerate the development of needed electric infrastructure. Last year and this year, I signed a number of bills that advance our electric infrastructure needs, helping us progress towards our decarbonization goals. We should build on these efforts thoughtfully. To that end, I'm directing my Administration to work through the infrastructure Strike Team established by Executive Order N-8-23 to do just this.

ASSEMBLY FLOOR: 78-0, 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, 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, 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, Lackey

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
10/19/23 10:50:08

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

SENATE RULES COMMITTEE SB 627
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VETO

Bill No: SB 627
Author: Smallwood-Cuevas (D), et al.
Amended: 9/7/23
Vote: 27

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

SENATE FLOOR: 29-10, 9/14/23
AYES: Allen, Archuleta, 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: Caballero

ASSEMBLY FLOOR: 47-16, 9/13/23 - See last page for vote

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.

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 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 California 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.

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for background information and information on prior and related legislation.]

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 10/11/23)

California Labor Federation (source)
Attorney General Rob Bonta
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 10/11/23)

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.

GOVERNOR'S VETO MESSAGE:

This bill would require certain chain employers to provide workers and their exclusive representative, if any, with a displacement notice at least 60 days before an expected date of closure. Additionally, it would require a chain employer to maintain a preferential transfer list of eligible laid-off employees and make job offers based on length of service for one year after the closure date and provide an opportunity to transfer to another chain location within 25 miles, as positions become available.

The new notice requirements, transfer rights, processes and criteria, and associated penalties established by this bill would impose significant burdens on employers. The arbitrary 25-mile radius for transfers does not take into account substantial regional differences among commute times. In addition, this bill applies to an overly broad list of establishments and creates vague processes and criteria, which will lead to implementation and enforcement challenges.

ASSEMBLY FLOOR: 47-16, 9/13/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Haney, Hart, Holden, Jackson, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Rendon, Reyes, Luz Rivas, Rodriguez, Santiago, Ting, Valencia, Ward, Weber, Wicks, Wood, Zbur, Robert Rivas
NOES: Alanis, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Bains, Bauer-Kahan, Chen, Grayson, Irwin, Jones-Sawyer, Lackey, Stephanie Nguyen, Pacheco, Petrie-Norris, Quirk-Silva, Ramos, Blanca Rubio, Schiavo, Soria, Villapudua, Wilson

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
10/19/23 10:50:47

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

SENATE RULES COMMITTEE SB 635
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

VETO

Bill No: SB 635
Author: Menjivar (D) and Portantino (D), et al.
Amended: 9/8/23
Vote: 27

PRIOR VOTES NOT RELEVANT

SENATE HEALTH COMMITTEE: 12-0, 9/13/23 (Pursuant to Senate Rules 29.10)
AYES: Eggman, Nguyen, Glazer, Gonzalez, Grove, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener

SENATE FLOOR: 40-0, 9/14/23
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: 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.

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.

2) *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.

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.

GOVERNOR'S VETO MESSAGE:

> This bill would require health plans to cover medically necessary hearing aids for individuals under 21 years of age, up to $3,000 per individual hearing aid without any cost sharing, beginning January l, 2025. I am committed to ensuring that hearing impaired children have access to the services and supports they need, including hearing aids. Today, children can receive hearing aids and related services through the CCS program or through Medi-Cal. In July 2021 we launched HACCP within DHCS for those who do not qualify for hearing aids through CCS or Medi-Cal. HACCP was created to improve access and coverage for children's hearing aids, a shared goal of this proposed bill. Unlike HACCP, however, SB 635 would exceed the state's set of EHBs, which are established by the state's benchmark plan under the provisions of the federal ACA. As such, this bill's mandate would require the state to defray the costs of coverage in Covered California. This would not only increase ongoing state General Fund costs, but it would set a new precedent by adding requirements that exceed the benchmark plan. A pattern of new coverage mandate bills like this could open the state to millions to billions of dollars in new costs to cover services relating to other health conditions. This creates uncertainty for our healthcare system's affordability, particularly when we have developed an alternative program that can serve the target population. That said, improving access to hearing aids for children is a priority for my Administration. We can, and we must, do better for these children and their families as we implement HACCP. To this end, I am directing my Administration to explore increases to Medi-Cal provider payments with the goal of incentivizing additional provider participation in HACCP, increasing access for youth in need of hearing aids. In addition, DHCS has developed a

comprehensive plan to increase provider participation and program enrollment. These improvements will enable HACCP to reach and serve more children, which is our shared goal. Specifically, in the next six months, DHCS will take a variety of steps to help patients maximize benefits, including: (1) partnering with other state entities to promote participation and awareness of HACCP, (2) completing translations for HACCP related materials into 18 languages, (3) implementing a streamlined annual eligibility renewal process to simplify provider enrollment, (4) conducting outreach to Medi-Cal providers not yet participating in HACCP to support their participation, (5) hosting quarterly webinars with providers and stakeholders, and (6) continuing to identify potential service improvements and strategies to increase program success. Given the structural concerns this bill presents to our healthcare system and the opportunity to improve the existing HACCP to accomplish the same objectives, I cannot sign this bill

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
10/19/23 11:03:49

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

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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VETO

Bill No: SB 640
Author: Portantino (D), et al.
Amended: 5/18/23
Vote: 27

SENATE EDUCATION COMMITTEE: 4-2, 3/29/23
AYES: Newman, Cortese, McGuire, Smallwood-Cuevas
NOES: Ochoa Bogh, Wilk
NO VOTE RECORDED: Glazer

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 4/19/23
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: 28-10, 5/31/23
AYES: Archuleta, 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: Allen, Caballero

ASSEMBLY FLOOR: 58-12, 9/11/23 - See last page for vote

SUBJECT: California State University: food service contracts and hotel development projects

SOURCE: Author

DIGEST: This bill prohibits the California State University (CSU) from entering into a food service contract or undertaking a hotel development project unless the food service employer or hotel employer is party to a labor peace agreement with a labor organization.

ANALYSIS:

Existing law:

1) Authorizes the Trustees of the CSU to enter into agreements for the performance of acts or for the furnishing of services, facilities, materials, goods, supplies, or equipment under certain conditions.

2) Requires the Trustees to prescribe policies and procedures for the acquisition of services, facilities, materials, goods, supplies, or equipment, subject to specified criteria.

This bill:

1) Requires the CSU Trustees to make it a condition precedent to entering into each food service contract and to the Trustees' participation in a hotel development project, and an ongoing material requirement of that contract or participation, that the person contracting with the Trustees and each food service employer or hotel employer be party to a labor peace agreement with any labor organization that represents or seeks to represent food service employees performing work under the food service contract or hotel employees at the hotel development project.

2) Defines "food service contract" to mean a contract with the Trustees or the CSU for a cafeteria or food and beverage outlet on or serving a CSU campus.

3) Defines "food service employer" to mean a person who employs employees performing work at a food service venue under a food service contract or subcontract of that contract.

4) Defines "hotel" to mean any hotel, motel, bed and breakfast inn, or other similar commercial transient lodging establishment, and shall include any contracted, leased, or sublet premises connected to or operated in conjunction with the hotel's purpose.

5) Defines "hotel development project" to mean a real estate development project that includes or is planned to include one or more hotels and in which the Trustees or the CSU have a proprietary interest.

6) Define "hotel employer" to mean any person who owns, controls, or operates a hotel in a hotel development project and who employs employees at that hotel.

7) Defines "labor organization" to mean any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

8) Defines "labor peace agreement" to mean a written agreement with a labor organization that contains, at a minimum, a provision prohibiting the labor organization and its members from engaging in any picketing, work stoppage, boycott, or other economic interference with the performance of a food service contract or a hotel employer's operations at a hotel development project.

9) Defines "person" to mean an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, or other legal or commercial entity, whether domestic or foreign.

10) Defines "proprietary interest" to mean an interest in the efficient procurement of goods and services or a financial, nonregulatory interest as a market participant, such as a landlord, contractor, investor, owner, or financier. "Proprietary interest" may include, but is not limited to, a financial interest in the form of expected lease revenues, expected debt service on a loan provided by the trustees, and underwriting or guaranteeing the development of a hotel development project or loans related to the project.

11) Specifies that any food service contract or hotel development project in which the CSU or an auxiliary organization has a proprietary interest and that is performed pursuant to a contract entered into or awarded by an auxiliary organization is subject to the requirement outlined above.

12) States that if a food service employer or hotel employer cannot reach agreement with a labor organization on the terms of a labor peace agreement, the requirements may be waived by the office of the Chancellor of the California State University upon a finding, supported by the substantial evidence, that the employer has made a good faith effort to reach a labor peace agreement to protect the trustees' proprietary interest, but the labor organization is not interested in negotiations, has not negotiated in good faith, or has abused the negotiation process, such that the trustees' proprietary interest would no longer be served by insisting on satisfying the requirements

of this subdivision. An employer or labor organization may appeal to the trustees the chancellor office's decision on whether to grant a waiver pursuant to this paragraph.

Comments

1) *Need for the bill.* According to the author, "In 2022, there were over 20 strikes across the country – with the largest higher education strike happening in California. Siting unfair labor practices, wanting better pay and benefits, and job security, University of California (UC) academic workers (many whom are graduate students themselves) made the decision to strike. Strikes bring work stoppage, and for California's higher education system, this meant canceled classes, delayed grading, interrupted course finals season and wasted tax dollars.

   "As CSU campuses continue to grow and evolve, more campus will develop campus plans with more hospitality and food service needs. Because the State of California has a proprietary interest in the activities and business of CSUs, it is essential to minimize future labor disruptions as much as possible through labor peace agreements.

   "By requiring CSU and their auxiliaries to enter a labor peace agreement, the CSU, its auxiliaries, and associated labor organizations, will then have mechanisms in place to avoid disruptive actions and ensure the State and its interests can continue fulfilling its mission continuously and without interruption."

2) *Food service contracts at CSU.* According to the CSU, most campuses contract their food service and hospitality programs to service management companies, whereas other campuses provide these services to students and staff "in-house". It has become increasingly common for self-operating campuses to engage in hospitality assessments to determine whether their food service programs are efficient enough to maintain profitability, particularly as student housing needs expand. In-house providers typically employ CSU workers and students. For campuses that contract out, the three food service management companies being used are Chartwells Higher Education, Aramark, and Sodexo. In addition, CSU campuses have food and beverage tenants, such as Starbucks, Panda Express, and Subway that lease retail space.

   As currently drafted, this bill applies to all "food service contracts", defined to mean a contract with the Trustees of the CSU for a cafeteria or food and beverage outlet on or serving a CSU campus, and "food service employers"

defined to mean a person who employs employees performing work at a food service venue under a food service contract. Would food and beverage retailers be required to comply with this bill?

3) *Hotel development projects at CSU.* Currently, the CSU operates two hotels—the Kellogg West Conference Center & Hotel at CSU Pomona and the CSU Fullerton Marriot. The Pomona hotel is operated exclusively by CSU students of the Collins College of Hospitality Management. The Fullerton Marriot is not operated by college students or staff, but is located on the CSU campus. Because the CSU Fullerton Marriot is located on the campus, the CSU collects lease revenue and, therefore, has a proprietary interest. There are also a number of CSU campuses with hotel development projects included in their facilities master plans. It is unclear if this bill would apply to the two existing hotels, one of which is exclusively run by students, or only prospective hotel projects on CSU campuses.

4) *Do labor peace agreements require all workers to unionize and collectively bargain?* Generally, a labor peace agreement is a contract between an employer and a union, in which the employer agrees to be neutral during a union organizing campaign and not interfere with union organizing. The union agrees not to engage in picketing, work stoppages, boycotts, and any other economic interference with the employer.

   This bill requires each food service employer (either a CSU campus, its auxiliary, or the entity it contracts with for food service) or hotel employer be party to a labor peace agreement with a labor union. This bill defines a labor peace agreement as "a written agreement with a labor organization that contains, at a minimum, a provision prohibiting the labor organization and its members from engaging in any picketing, work stoppage, boycott, or other economic interference with food service or hotel operations in which the trustees have a proprietary interest."

   Labor peace agreements appear far more limited in scope than collective bargaining agreements because they only cover parties' rights with respect to union organizing. Collective bargaining agreements, by contrast, are broader and include the terms and conditions of employment, such as wages, hours, benefits, working conditions, and more.

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

According to the Assembly Appropriations Committee, potential General Fund cost increases to CSU campuses for more expensive food service and hotel

contracts to the extent this bill results in increased labor costs for food service and hotel development employees. Some of the increase in labor costs may be passed down to students in the form of higher food prices or more expensive meal plans.

SUPPORT: (Verified 10/17/23)

None received

OPPOSITION: (Verified 10/17/23)

None received

GOVERNOR'S VETO MESSAGE:

> This bill would require any food service contract or hotel development project undertaken by the California State University (CSU) Board of Trustees to be with an employer that is party to a labor peace agreement with a labor organization. This requirement extends to any food service and hotel development contract in which the CSU or the State of California has a proprietary interest and that is performed in accordance with a contract entered into or awarded by a CSU auxiliary organization.
>
> California State University campuses have a long history of organizing. Faculty and staff have been organized for decades, and this year a labor organization submitted more than 8,500 digital cards signed by students to the Public Employment Relations Board to advance towards a union vote. Additionally, six campuses have auxiliary organizations that have been unionized. It is the understanding of my Administration that recent organizing on CSU campuses has been largely respectful. In light of this history, it is not clear that this legislation is needed to facilitate successful organizing on CSU campuses. While I support minimizing disruptions to students from work stoppages on campus, this bill is premature.

ASSEMBLY FLOOR: 58-12, 9/11/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, 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, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Rendon,

Reyes, Luz Rivas, Rodriguez, Santiago, Soria, Ting, Ward, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Megan Dahle, Davies, Dixon, Essayli, Vince Fong, Gallagher, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis
NO VOTE RECORDED: Berman, Lackey, Mathis, Pacheco, Ramos, Blanca Rubio, Schiavo, Valencia, Villapudua, Weber

Prepared by: Ian Johnson / ED. / (916) 651-4105
12/28/23 12:06:53

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

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

VETO

Bill No: SB 641
Author: Roth (D), et al.
Amended: 9/1/23
Vote: 27

SENATE HEALTH COMMITTEE: 11-0, 4/26/23
AYES: Eggman, Glazer, Gonzalez, Grove, Hurtado, Limón, Menjivar, Roth, Rubio, Wahab, Wiener
NO VOTE RECORDED: Nguyen

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

SENATE FLOOR: 40-0, 9/14/23
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: 76-0, 9/13/23 - See last page for vote

SUBJECT: Public health: alcohol and drug programs: naloxone

SOURCE: Alexander Neville Foundation
California Association of Alcohol and Drug Program Executives, Inc.
Riverside County Sheriff Chad Bianco

DIGEST: This bill requires the Department of Health Care Services (DHCS) to make all approved formulations and dosage strengths of naloxone or any other opioid antagonist that are indicated for the emergency treatment of known or suspected opioid overdose available through the Naloxone Distribution Project (NDP).

ANALYSIS:

Existing law:

1) Authorizes licensed health care providers to issue a standing order for the distribution or the administration of naloxone or any other opioid antagonist that is approved by the United States Food and Drug Administration (FDA) for the treatment of an opioid overdose to a person at risk of overdose, or family members, friends, or other persons in a position to assist a person at risk of an opioid-related overdose.

2) Requires a person who is prescribed or possesses naloxone or any other opioid antagonist pursuant to a standing order to receive training, as specified. [CIV §1714.22, et seq.]

This bill:

1) Requires DHCS, as part of its NDP, to make all FDA-approved formulations and dosage strengths of naloxone or any other opioid antagonist that are indicated for the emergency treatment of known or suspected opioid overdose available through the NDP to the extent that this does not jeopardize federal funding.

2) Specifies that the NDP is not required to contract with any manufacturer that does not offer direct shipment to applicants, and that this bill does not require the NDP or DHCS to store products or ship them to applicants.

Comments

1) *Author's statement.* According to the author, California's opioid overdose epidemic—which claimed 7,175 lives in 2021—demands a comprehensive, every-tool-in-the-tool belt approach. To that end, this bill will ensure that California's NDP makes all FDA-approved naloxone dosage strengths and formulations for opioid overdose reversals available to law enforcement, first responders, community organizations, schools, and local health agencies. This commonsense measure recognizes that one-size-fits-all solutions are not sufficient in our large, diverse state, and the author is proud to have the support

of the heroes on the front lines of responding to the overdose crisis. The author has no doubt that this bill will save countless lives.

2) *Naloxone.* According to the U.S. Surgeon General, naloxone is an opioid antagonist that is used to temporarily reverse the effects of an opioid overdose, namely slowed or stopped breathing. Expanding the awareness and availability of this medication is a key part of the public health response to the opioid epidemic. Naloxone is a safe antidote to a suspected overdose and, when given in time, can save a life. Research shows that when naloxone and overdose education are available to community members, overdose deaths decrease in those communities. Therefore, increasing the availability and targeted distribution of naloxone is a critical component of our efforts to reduce opioid-related overdose deaths and, when combined with the availability of effective treatment, to ending the opioid epidemic. In most states, including California, people who are or who know someone at risk for opioid overdose can go to a pharmacy or community-based program, to get trained on naloxone administration, and receive naloxone by "standing order," i.e., without a patient-specific prescription. Most states have laws designed to protect health care professionals for prescribing and dispensing naloxone from civil and criminal liabilities, as well as Good Samaritan laws to protect people who administer naloxone or call for help during an opioid overdose emergency. Naloxone is increasingly being used by police officers, emergency medical technicians, and non-emergency first responders to reverse opioid overdoses. There are two FDA-approved naloxone products for community use that are available by prescription, but too few community members are aware of the important role they can play to save lives. The Surgeon General advises patients and the public to talk with their doctor or pharmacist about obtaining naloxone; learn the signs of opioid overdose, like pinpoint pupils, slowed breathing, or loss of consciousness; and, get trained to administer naloxone in the case of a suspected emergency.

3) *Statewide standing order for naloxone distribution*. The California Department of Public Health issued a statewide standing order for naloxone in June 2018. The order allows organizations and entities, including K-12 schools, colleges, and universities, to distribute naloxone to a person who is at risk of experiencing an overdose or an individual in a position to assist an at-risk person. Staff of community organizations and other entities distributing naloxone under the statewide standing order are required to receive training, and are also required to provide training to individuals who receive naloxone from them. Organizations may apply to use the statewide standing order and meet certain terms and conditions. A separate distribution program

administered through DHCS makes use of the statewide standing order and allows various entities to apply for and obtain naloxone at no cost.

4) *Naloxone Distribution Project (NDP).* The NDP aims to reduce opioid overdose deaths through the provision of free naloxone. Entities can apply to DHCS to have naloxone shipped directly to their address. Eligible entities include:

   a) Law enforcement such as police departments, county jails, and probation;

   b) Fire, emergency medical services (EMS), and first responders;

   c) Schools and universities;

   d) County public health and behavioral health departments; and,

   e) Community organizations, such as harm reduction organizations or community opioid coalitions.

   Since it began in October 2018, the NDP has distributed more than 2.2 million kits of naloxone, which have been used to reverse more than 140,000 overdoses. The NDP receives State General Funds and opioid settlement funds from the Janssen and Distributors (J&D) Settlement Agreements.

5) *Recent FDA approval.* On March 29, 2023, the FDA approved four-milligram naloxone nasal spray for over-the-counter (OTC), nonprescription, use—the first naloxone product approved for use without a prescription. This action, according to the FDA, paves the way for the life-saving medication to reverse an opioid overdose to be sold directly to consumers in places like drug stores, convenience stores, grocery stores, and gas stations, as well as online. The timeline for availability and price of this OTC product is determined by the manufacturer. The FDA will work with all stakeholders to help facilitate the continued availability of naloxone nasal spray products during the time needed to implement the switch from prescription to OTC status, which may take months. Other formulations and dosages of naloxone will remain available by prescription only. In its November 15, 2022 announcement related to the preliminary assessment for the OTC approval, the FDA specified it was assessing whether certain naloxone drug products—up to four milligrams nasal spray and up to two milligrams auto injector for intramuscular or subcutaneous use—would be approved as safe and effective for nonprescription use.

6) *Higher doses of opioid antagonists.* In response to the increasing presence of fentanyl and resulting overdoses, both by users who actively seek it and in the unintended use by those who seek out other drugs that have fentanyl in them,

several drug makers have received FDA approval of and started to market higher doses of opioid antagonists: Kloxxado, an eight milligram intranasal naloxone product, was approved in April of 2022, and in October of 2022, Zimhi, a five milligram injectable form of naloxone was approved. Drug makers have pointed to the worsening opioid epidemic and overdose rates, especially since the proliferation of synthetic opioids, and have stated that multiple doses of four-milligram naloxone have had to be administered to reverse fentanyl-caused overdoses.

7) *Skepticism about the need for higher-dose opioid antagonists.* In a December 2021 article in *STAT*, "How much naloxone is needed to reverse an opioid overdose?" harm reduction organizations expressed concerns about the need for and unintended consequences of higher-dose overdose reversal medications. Generally, harm reduction organizations state that higher doses of naloxone can cause precipitated withdrawal, typically in people who are opioid-dependent, which triggers symptoms like diarrhea, vomiting, pain, and anxiety. (These opioid withdrawal symptoms, while extremely uncomfortable, do not result in death.) The FDA and drug makers also agree that higher-dose naloxone can cause precipitated withdrawal symptoms in those who are opioid dependent but argue that restoring respiration quickly before brain injury or death occur outweighs the discomforting symptoms. However, harm reduction organizations point to the trauma that such symptoms can cause to drug users, which would cause an increase in their distrust in medicine, especially since some studies have pointed to the efficacy of four-milligram naloxone even in those who were found to have fentanyl in their blood. These organizations also fear, as some studies have shown, that if people begin to associate naloxone or other opioid antagonists with negative experiences, they will be reluctant to carry it as to avoid further agonizing symptoms. In a March 28, 2023 report in *STAT,* "How the drug industry uses fear of fentanyl to extract more profit from naloxone," several of the arguments against higher-dose naloxone products stated above are revisited, with the added argument that pharmaceutical companies have been on a race to figure out how to increase profits for naloxone, which no company has held patent exclusivity over since 1985, and there's little money to be made selling low-cost generic versions. The report also states that the director of the National Institute of Drug Abuse recently stated in an interview that starting with administering smaller doses of naloxone (to an individual experiencing or suspected to be experiencing opioid overdose) is ideal, arguing that the higher-dose products may be useful in contexts where an overdose victim won't necessarily have access to follow-up care, which can help ensure naloxone remains in an overdose victim's system for longer and prevent another overdose. However, generally, experts argue that there are no

scientific or medical reasons why higher-dose naloxone should become the norm or are currently needed at all.

An article in the *International Journal of Drug Policy*, "Increasingly powerful opioid antagonists are not necessary," states that while there may have been some reports of first responders requesting higher-dose naloxone, or reports that several doses of four milligram naloxone have had to be administered to reverse an overdose, given widespread news reports about potent synthetic opioids often accompanied by alarmist misinformation about passive exposure risk, it is plausible that the increase in multiple naloxone administrations among EMS is an artifact of availability bias with multiple doses administered out of an abundance of caution, rather than based on clinical signs and symptoms. The article also states that patients treated for suspected opioid overdose may also only appear to need more naloxone due to intentional concomitant use of opioids and other sedating drugs, such as alcohol and benzodiazepines, and contamination of the illegal opioid supply with non-opioid depressants, like xylazine and barbiturates. Xylazine, a veterinary tranquilizer that is increasingly found in illicit fentanyl—one case so far was recently reported in the San Jose area—appears to have made overdoses more difficult to reverse, as it is not an opioid and no amount of naloxone will overturn the resulting symptoms. DHCS, which makes four-milligram nasal spray and 0.4 milligram intramuscular naloxone available through the NDP, also states that their research indicates, among other concerns, higher-dose naloxone can have negative unintended consequences among drug users. It is important to note as well that even while experts agree that naloxone is generally innocuous if administered to someone who is not experiencing an overdose, the FDA still indicates that up to four milligrams of naloxone nasal spray is what was approved for safe use as OTC for the general public.

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

According to the Assembly Appropriations Committee, costs of an unknown, but likely significant amount, to DHCS. DHCS estimated costs for additional staff of $1.5 million in fiscal year (FY) 2024-25 and $1.4 million in FY 2025-26 and ongoing (General Fund) for a previous version of this bill, noting the costs to purchase all of the various formulations, and potentially to store and ship the doses, was indeterminate. DHCS stated it would need additional staff to support new contracting requirements and program expansion needs, including implementing new processes, policies, and procedures, and in anticipation of potential litigation resulting from the misuse of dosage levels. As amended, the costs associated with storing and shipping doses are no longer relevant, but many of the other expected

costs remain. Opioid Settlement Funds (OSF) may become available for the NDP in the future, but projected OSF revenues are fully allocated through FY 2026-27.

SUPPORT: (Verified 9/13/23)

Alexander Neville Foundation (co-source)
California Association of Alcohol and Drug Program Executives, Inc. (co-source)
Riverside County Sheriff Chad Bianco (co-source)
Anaheim Lighthouse
Arcadia Police Officers' Association
Burbank Police Officers' Association
California Alliance for State Advocacy
California Association of Social Rehabilitation Agencies
California Coalition of School Safety Professionals
California Hospital Association
California State Sheriff's Association
Claremont Police Officers' Association
Corona Police Officers' Association
Culver City Police Officers' Association
Deputy Sheriffs' Association of Monterey County
End Overdose
Father Joe's Villages
FentanylSolution.org
Forever Free Foundation
Fullerton Police Officers' Association
High Truths on Drugs and Addiction
LA Recovery Connect
League of California Cities
Los Angeles School Police Officers' Association
Murrieta Police Officers' Association
MYMATCLINIC
Newport Beach Police Association
Orange County Recovery Collaboration
Palos Verdes Police Officers' Association
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside Police Officers' Association
Riverside Sheriffs' Association
Santa Ana Police Officers' Association
Steinberg Institute
Tarzana Treatment Centers

Upland Police Officers' Association
Victims of Illicit Drugs
One individual

OPPOSITION: (Verified 9/13/23)

Department of Finance

ARGUMENTS IN SUPPORT: Supporters of this bill argue that it is crucial to addressing the opioid epidemic in our state, which experiences thousands of overdose deaths each year. It will also save scarce state resources—freeing up funding that could be used to save even more lives. The opioid crisis is one of the most significant public health crises in California's history. Preliminary 2021 data shows that there were 6,843 opioid-related overdose deaths in our state, with fentanyl-related deaths accounting for the vast majority. The proliferation of fentanyl, which is up to 50 times stronger than heroin, has made it increasingly difficult to reverse overdoses with the current dosage strengths of naloxone provided by the NDP. Supporters state that DHCS's NDP is a critical tool in preventing overdose deaths, and this bill would ensure that all FDA-approved formulations and dosage strengths of naloxone are made available to eligible applicants. Supporters further argue this bill is that it will save state resources as data from California's own Department of Corrections and Rehabilitation (CDCR)—and numerous other studies—show the insufficiency and inefficiency of four-milligram naloxone. CDCR responded to 579 overdose cases between March 15, 2021 and March 14, 2022. Of that number, 81.3% of cases (471) consumed two or more units of four-milligram naloxone; a remarkable 55% of the cases (319) relied on three or more doses; and more than 20% of cases (122) used five or more doses. In some instances, as many as ten doses of four-milligram naloxone were administered. Supporters state that when taking into consideration the fact that the eight-milligram product can be purchased by the NDP at the same price as the four-milligram product, it is easy to see that expanding product availability would also save the state money.

ARGUMENTS IN OPPOSITION: The Department of Finance is opposed to this bill because it results in significant ongoing General Fund costs that should be considered as part of the annual budget process. The 2023 Budget Act includes $275 million OSF over the next four fiscal years for the NDP. Additionally, the 2023 Budget includes $30 million OSF for the CalRx Naloxone Access Initiative to support increased access to a low-cost naloxone nasal product.

GOVERNOR'S VETO MESSAGE:

This bill would require DHCS to make all FDA-approved formulations and dosage strengths of naloxone, or any other opioid antagonist, available through the NDP. The NDP was created to combat the opioid crisis by providing free naloxone in a dosage strength that is safest for public use. Since October 2018, the NDP has provided more than 2.5 million free naloxone kits to first responders, community and harm reduction organizations, schools, public health agencies, and others.

Though well intentioned, this bill could lead to the distribution of formulations and dosage strengths that may not be suited for the general public and may be more costly than other equally effective formulations. If it is determined that there is a need to add new formulations or dosages to the NDP in the future, that can be accomplished administratively.

ASSEMBLY FLOOR: 76-0, 9/13/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, 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, 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, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Bauer-Kahan, Chen, Jones-Sawyer, Luz Rivas

Prepared by: Reyes Diaz / HEALTH / (916) 651-4111
10/20/23 10:12:38

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

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VETO

Bill No: SB 657
Author: Caballero (D), et al.
Amended: 7/12/23
Vote: 27

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

SENATE FLOOR: 39-0, 9/11/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 79-0, 9/7/23 - See last page for vote

SUBJECT: Homelessness services staff training

SOURCE: Author

DIGEST: This bill requires the Interagency Council on Homelessness (Cal-ICH) to coordinate with the California Department of Aging (CDA), the California continuums of care (CoCs), and the area agencies on aging (AAAs) to convene a working group, by March 1, 2024, relating to older adults and homelessness.

ANALYSIS:

Existing law:

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

    a) A primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

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

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

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

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

4) Defines, in federal statute, "Continuums of Care (CoCs)" means the group organized to carry out the responsibilities required and that is composed of representatives of organizations, including nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons to the extent these groups are represented within the geographic area and are available to participate. *(24 CFR 578.3)*

5) Defines "Area agency on aging" means a private nonprofit or public agency designated by the Department of Aging that works for the interests of older Californians within a planning and service area, engages in community planning, coordination, and program development, and through contractual arrangements, provides a broad array of social and nutritional services. (*WIC 9006)*

This bill:

1) Requires the Cal ICH to coordinate with the California Department of Aging, California CoCs and the AAAs to convene a working group to do all of the following:

    a) Develop recommendations for best practices for assisting older adults to prevent and overcome homelessness and for training those who assist older adults to prevent and overcome homelessness.

    b) Develop a training for those who assist older adults with housing needs to help those individuals access resources to prevent becoming homeless, and to help older adults who are homeless in obtaining a permanent housing solution.

    c) Ensure the training is culturally and geographically appropriate.

    d) Determine who should take the training, whether the training should be mandatory or voluntary, and if the training is mandatory, determine who will enforce the training requirement.

2) Requires the working group to convene by no later than March 1, 2024 and develop training materials and guidelines no later than March 1, 2025.

3) Requires Cal ICH, on or before March 1, 2025, to submit a report on the working group's recommendations to Assembly and Senate Committees, as specified.

Background

According to the author, "California Seniors are at great risk of homelessness because of the rapid rise in the cost of housing. Most have worked their entire lives and find it difficult to manage a budget on a limited income. Seniors are estimated to be the fastest-growing group in our nation experiencing homelessness, many for the first time. Homeless shelter and prevention services' staff are an important component to the success of addressing California's homeless crisis; however, the majority of the supportive staff are not trained in the issues and concerns of older adults. Training staff to understand the impacts of aging that can affect communication, mobility issues, isolation, hearing and memory loss, and medical issues are all important to know to help seniors live their best life and boost the quality of care for individuals across care services."

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

Older Adult Homelessness in California. According to a 2021 report by the Administration for Community Living, 17 percent of people living in the United States were 65 or older in 2020 and that number is expected to grow to 22 percent by 2040. Adults over the age of 50 are comprising a growing proportion of the number of individual adults experiencing homelessness. As of September 2022, data from the state's Homeless Data Integration System (HDIS) showed that of the 272,626 people experiencing homelessness that had contact with the homelessness

response system, about 40 percent were individuals aged 50 and older. The inflationary cost pressures of the last two years may have also contributed to the increase in the number of older adults experiencing homelessness for the first time. Research by the California Budget Center and others indicates that reasons for the increase in the number of older adults experiencing homelessness for the first time vary, including the series of recessions, financial and medical emergencies later in life, the shortage of affordable housing, difficulties with accessing support and social safety net programs, and insufficient benefit amounts.

Research has also found that people experiencing homelessness have declining health conditions that in comparable populations of housed people wouldn't arise for another 10-20 years. Additionally, older adults may have a disability or underlying health conditions which may require more assistive services to obtain and maintain their housing. The author's office has noted that some staff at shelters and other homeless service providers may not have the knowledge or capabilities to be able to address the complex needs of older adults. As such, the increasing numbers of older adults experiencing homelessness will have significant implications for the service offerings and practices of the homeless service system going forward.

Continuums of Care. There are currently 44 CoCs across California's 58 counties. CoCs are often led by a county or non-profit organization, though in some cases, they are led by a city, and are composed of a number of representative organizations that serve individuals facing homelessness. These can include nonprofit homeless providers, governments, victim service providers, hospitals, mental health agencies, affordable housing developers, and law enforcement, among others. HUD requires CoCs to collect client-level data and data on the provision of housing and services to homeless individuals and families and persons at risk of homelessness and enter it into a database. This is accomplished by using a Homeless Management Information System (HMIS), which is a local information technology system. Each CoC is responsible for selecting a HMIS software solution that complies with HUD's data collection, management, and reporting standards. HMIS in California is composed of each CoC's database. HUD requires each CoC's HMIS to comply with their data collection, management, and reporting standards and also requires CoCs to enter data from both the annual PIT count and annual Housing Inventory Count into HMIS. This data is now complied into the state's HDIS.

California Interagency Council on Homelessness (Cal ICH). SB 1220 (Rivas, L., Chapter 398, Statutes of 2021) renamed the Homeless Coordinating and Financing Council (HCFC) to Cal ICH, named the secretaries of BCSH and CHHS as co-

chairs of the council, and changed the membership composition from one that included a mix of state and local agencies, persons who previously experienced homelessness, and homeless advocacy groups to one composed of state departments' and offices' directorate, including the Departments of Rehabilitation, Aging, Social Services, State Hospitals, and the state's Medicaid Director.

SB 1220 also added an advisory committee that meets twice a year with the Cal ICH. The advisory committee is currently composed of the following members: a survivor of gender-based violence who formerly experienced homelessness; a person with a disability who currently or formerly experienced homelessness; a person with a developmental disability who currently or formerly experienced homelessness; representatives of local agencies or organizations that participate in HUD's Continuum of Care Program; stakeholders with expertise in solutions to homelessness and best practices from other states; representatives of committees on African Americans, youth, and survivors of gender-based violence; a current or formerly homeless person who lives in California; and a current or formerly homeless youth who lives in California. One advisory committee member will be chosen to participate in the quarterly council meetings to report their committee's activities to the Cal ICH.

The Cal ICH is tasked to continue the work it began as HCFC, which was created by SB 1380 (Mitchell, Chapter 847, Statutes of 2016), such as coordinating the state's response to homelessness, and creating partnerships among state agencies and departments, local government agencies, nonprofits, and federal agencies, among others. The Cal ICH is also responsible for administering and distributing funding associated with the Homeless Housing Assistance and Prevention Program, through which millions of dollars allocated through the state budget process are provided to local governments and CoCs to address immediate homelessness challenges. Additionally, SB 918 (Wiener, Chapter 841, Statutes of 2018) required the Cal ICH to set and measure progress toward goals to prevent and end homelessness among youth in California, and SB 914 (Rubio, Chapter 665, Statutes of 2022) requires the Cal ICH to set and measure progress toward goals to prevent and end homelessness among domestic violence survivors and their children and among unaccompanied women in California by January 1, 2025.

This bill requires, upon receipt of an appropriation, the Cal ICH, by March 1, 2024, to coordinate with the California Department of Aging, CoCs and AAAs to convene a working group as provided. The bill also requires, by March 1, 2025, the working group to develop best practice recommendations, training materials and

prescriptive guidelines for those who assist older adults with housing needs and Cal ICH to submit a report to the Legislature, as provided.

Area Agency on Aging (AAA). AAAs are public or private non-profit agencies designated by the state to address the needs and concerns of all older persons at the regional and local levels. "Area Agency on Aging" is a generic term—specific names of local AAAs may vary. AAAs are primarily responsible for a geographic area that is either a city, a single county, or a multi-county district. The California Department of Aging contracts with and provides leadership and direction to 33 AAAs that coordinate a wide array of services to older adults and adults with disabilities at the community level and serve as the focal point for local aging concerns. AAAs goal is to make it possible for older individuals to choose the services and living arrangements that suit them best.

Related/Prior Legislation

SB 914 (Rubio, Chapter 665, Statutes of 2022) created the HELP Act and required Cal ICH to set and measure progress toward goals to prevent and end homelessness among domestic violence survivors and their children and among unaccompanied women in California, as described by January 1, 2025.

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

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

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

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

According to the Assembly Appropriations Committee:

1) Cal ICH estimates General Fund (GF) costs of $178,000 in the first year and ongoing costs of approximately $170,000 (GF) annually thereafter, for one position to coordinate with CDA, CoCs, and AAAs to establish the working

group goals and objectives, conduct research on best practices, provide continued training implementation, draft the request for proposal, and serve as the contract manager and overall program lead.

2) Cal-ICH estimates a one-time GF cost of $500,000 for a contractor to support the establishment of the working group and develop the training curriculum. The contractor will also provide outreach and engagement to targeted audience, as defined by the working group (such as homeless services staff that need to take training), and create training curriculum informed by the working group and additional materials as needed, and manage outreach and training materials.

3) CDA anticipates minor and absorbable costs to participate in the working group.

SUPPORT: (Verified 10/11/23)

Agency on Aging \ Area 4
City and County of San Francisco
San Francisco Department of Homelessness and Supportive Housing
Serving Seniors

OPPOSITION: (Verified 10/11/23)

None received

GOVERNOR'S VETO MESSAGE:

This bill would require the California Interagency Council on Homelessness (Council) to coordinate with the Department of Aging, Continuums of Care, and Area Agencies on Aging to convene a working group to develop best practices and training for those assisting older adults to prevent and overcome homelessness.

While I agree with the underlying intent of the bill, some of its provisions are duplicative of the Council's current efforts with member Departments, including the Department of Aging, to establish best practices and provide support for this population. These efforts include the State's recent partnership with the federal government through the ALL INside Initiative, which includes a specific focus on supporting older adults. In addition, the State has also produced the Master Plan for Aging, a comprehensive 10-year blueprint that outlines how the State will address housing solutions for older adults by 2030, including efforts for enriching services and housing for older

Californians. I look forward to working with the author to build on these efforts thoughtfully, but at this time, legislation is not necessary.

ASSEMBLY FLOOR: 79-0, 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, 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
NO VOTE RECORDED: Essayli

Prepared by: Bridgett Hankerson / HUMAN S. / (916) 651-1524
10/19/23 10:48:00

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

SENATE RULES COMMITTEE SB 664
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

VETO

Bill No: SB 664
Author: Stern (D)
Amended: 9/8/23
Vote: 27

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: Senate Rule 28.8

SENATE FLOOR: 40-0, 5/22/23
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 FLOOR: 39-0, 9/13/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 80-0, 9/12/23 - See last page for vote

SUBJECT: Energy: reliability planning assessment: integrated energy policy report

SOURCE: Clean Power Campaign

DIGEST: This bill requires the California Energy Commission (CEC) to include extreme weather events within the existing energy demand forecasts and, as part of an existing assessment with the California Public Utilities Commission (CPUC), include specified reporting on the status of electric infrastructure projects and the contracting of fossil fuel resources as part of a statewide program for electricity supply reliability.

ANALYSIS:

Existing law:

1) Requires an electrical corporation that owns electrical transmission facilities to annually prepare a report identifying the changes to any in-service dates of any electrical transmission and interconnection facility, upgrade, or enhancement that was previously reported and is reasonably necessary to achieve the procurement requirements of the California Renewal Portfolio Standards Program and to submit that report to the CPUC. (Public Utilities Code §399.13)

2) Requires the CEC and CPUC, on or before December 15, 2022, and quarterly thereafter, to submit to the Legislature a Joint Reliability Planning Assessment that, among other things, includes prospective information on existing and expected resources, including updates on the interconnection status for renewable projects and any delays in interconnection, and expected retirements for both system and local resources. Requires the CEC to report in the energy almanac on California energy resources that serve load in California. (Public Resources Code §25233)

3) Requires the CEC, on a biennial basis, to adopt an integrated energy policy report (IEPR) containing an overview of major trends and issues facing the state. Requires the report to include an assessment and forecast of system reliability and the need for resource additions, efficiency, and conservation that considers all aspects of energy industries and markets that are essential for the state economy, general welfare, public health and safety, energy diversity, and protection of the environment. (Public Resources Code §25302)

4) Establishes the Electricity Supply Strategic Reliability Reserve Program (ESSRRP), administered by the Department of Water Resources (DWR), to expand the resources capable of managing or reducing net-peak demand during extreme events. Provides funding to secure conventional generation, efficiency

upgrades at existing natural gas plants, demand response, distributed generation, and long-duration storage. (Water Code §§80710-80712)

5) Creates the Electricity Supply Strategic Reliability Reserve Fund (ESSRRF), a continuously appropriated fund, for purposes of adding resources to the electrical grid to ensure electrical grid reliability and support the clean energy transition. Authorizes the CEC to approve an investment plan provided by the DWR regarding the terms, cost, and scope of the contracts, entered into for those purposes. (Public Resources Code §25793)

This bill:

1) Requires the Joint Reliability Assessment to also include:

   a) The status of electric utility transmission upgrades and electrical grid infrastructure capacity.

   b) CPUC approvals of applications for certificates of public convenience and necessity (CPCN) and permits to construct utility and independent projects, and applications for permits for projects from the CEC and the queue of projects from the California Independent System Operator (CAISO), include the expected completion dates for both system and local resource.

   c) Report on the use of fossil fuel by facilities constructed by, purchased by, or under contract with the DWR, as part of the ESSRRP and ESSRRF.

2) Requires the CEC to quarterly publish on its internet website and update a tracking energy development dashboard that synthesizes and publishes the information included in the Joint Reliability Planning assessment and reported on state's energy resources in the energy almanac.

3) Requires the CEC to ensure that the demand forecasts in the IEPR and wind and solar energy generation profiles account for increased weather variability, interactive weather effects, and increased likelihood of heat events, including multiday events, due to climate change, and to use the demand forecasts and those energy generation profiles to inform its energy planning.

Background

Extreme weather events. In recent years, California has experienced challenges ensuring adequate electricity supply reliability during extreme heat events when demand peaks and generation has been reduced or constrained. In August 2020, electric generation and transmission capacity was strained to keep up with the increased electricity demand – setting a peak demand record in the Western Interconnection of just over 162,000 megawatts (MW) on August 18, 2020. During this heat wave, many balancing authorities were forced to declare energy emergencies as they were unable to meet their load obligations, including the CAISO and five balancing authorities outside California. Within the CAISO, for the first time in about 20 years, utilities were forced to shed load – via rotating outages – to help balance the electrical grid. The outages ranged from 8 minutes to 2.5 hour durations, depending the utility, while affected customers experienced between 8 minutes to 20 minute outages, generally. The following year, in the midst of a heat wave, a wildfire in Oregon compromised an electric transmission line, dramatically reducing a critical source of energy imports for the state. Last year, a ten-day heat wave resulted in the CAISO setting an all-time record for electricity demand of over 52,000 megawatts on September 6th. The combination of increased demand and variability and constrained electricity supply, resulted in the state for the first-time issuing a wireless emergency alert calling on Californians to conserve.

CEC and CPUC joint Reliability Planning Assessment. As part of SB 846 (Dodd, Chapter 239, Statutes of 2022) authorized the extension of the Diablo Canyon Power Plant (DCPP)—which was scheduled to retire by 2025—through 2030. SB 846 also included legislative intent to provide a total of $1 billion from the General Fund from 2023-24 through 2025-26—$100 million in 2023-24, $400 million in 2024-25, and $500 million in 2025-26—to support the Clean Energy Reliability Investment Plan, which CEC recently updated. The legislation required the plan to support investments that address near- and mid-term reliability needs and the state's greenhouse gas (GHG) and clean energy goals. The plan adopted by the CEC incorporates a combination of planning and enabling structures to support clean energy deployment and augmenting for extreme events for the first year $100 million funding. Additionally, the legislation requires the CEC and CPUC to quarterly publish a reliability planning assessment to include estimates of supply and demand for the next 10 years under different risk scenarios, information on existing and new resources and delays, and a description of barriers to timely deployment of resources. The agencies have issued their third quarterly report since the passage of SB 846.

Integrated Energy Policy Report (IEPR). The IEPR provides a cohesive approach to identifying and solving the state's pressing energy needs and issues. The report, which is crafted in collaboration with a range of stakeholders, develops and implements energy plans and policies. SB 1389 (Bowen, Chapter 568, Statutes of 2002) required the CEC to conduct assessments and forecasts of all 10 aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices. The CEC is then required to use these assessments and forecasts to "develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety." The CEC adopts an IEPR every two years and an update every other year.

Transmission Development Forum. The Transmission Development Forum is a joint effort between the CAISO and the CPUC to discuss and track Participating Transmission Owners expansion, 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, particularly for projects in the transmission queue.

Tracking Energy Development (TED) Task Force. The TED Taskforce is complimentary 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 ad hoc 2021 efforts to provide energy resource project development support, as appropriate, and identify barriers and mitigation strategies to accelerate energy project development.

Electricity Supply Strategic Reliability Reserve Program 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) 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.

DWR ESSRRP contracting for fossil fuel resources. As part of the ESSRRP, DWR has contracted with natural gas turbine generator units, including three natural gas powerplants subject to the State Water Resources Control Board's once-through-cooling regulations. These natural gas power plants – AES Alamitos, AES Huntington Beach, and Ormond – are in addition to contracts for imported energy and four temporary natural gas turbine generator units totaling 120 MW at existing power generation sites located in the Cities of Roseville (two units owned by Roseville) and Yuba City (two units owned by Calpine). Current agreements allow the units to remain available for operation until the end of 2023. DWR is also in entered into of contracts for other resources, including a gas plant owned by California State University at Channel Islands and Enchanted Rock Electric LLC for three separate plants operating in local publicly owned utilities service territories within the San Joaquin Valley (City of Lodi, Modesto Irrigation District, and Turlock Irrigation District). DWR has also entered into an agreement with Pacific Gas & Electric as the owner and operator of the DCPP to secure necessary funding for fuel purchases and management to maintain the option of extending the use of the facility (contingent on extended licensing) beyond the current retirement dates.

The need for this bill. This bill requires additional reporting of the CEC and CPUC as part of the joint Reliability Planning Report, including identifying fossil fuel resources contracted by DWR. This bill also largely codifies the CEC's current and intended near- and longer-term efforts to better incorporate extreme events in its demand forecast, as part of the IEPR. Since August 2020 heat wave when CAISO was forced to institute rotating electricity outages, the CEC has instituted a number of changes to its demand forecasts to better account for extreme weather events, specifically incorporating 1-in-2-year weather events, 1-in-5-year weather events, 1-in-10-year weather events, and 1-in-20-year weather events to better account for the impacts of climate change on electricity peak demand. For the 2023 IEPR forecast, the CEC is exploring shifting to a methodology that uses climate projections to develop the one-in-X peak demand forecast. The climate change projections account for the increasing frequency and intensity of extreme heat, and an increase in the number of consecutive days with extreme temperatures. As a longer-term project, the CEC is also looking into the electricity output impacts of

extreme heat on generation resources, including solar photovoltaic and wind energy.

Related/Prior Legislation

SB 124 (Committee on Budget and Fiscal Review, Chapter 53, Statutes of 2023) required the CEC, CAISO, and DWR to submit a report to the Legislature each year on the status of the impact of new resource additions and revisions to the state's electric demand forecast, and the impact of these updates and needed for keeping the DCPP online.

SB 319 (McGuire, Chapter 390, Statutes of 2023) required 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 required these state energy agencies to jointly develop an electrical transmission infrastructure development guidebook.

SB 420 (Becker, 2023) would have exempted construction of certain low-voltage electrical lines and associated equipment from the need to receive a discretionary permit from the CPUC. The bill was vetoed.

AB 1373 (E. Garcia, Chapter 367, Statutes of 2023) made numerous changes to electricity policy, most notably, authorizes the 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. This bill also includes numerous related and additional provisions.

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 846 (Dodd, Chapter 239, Statutes of 2022) included a requirement that the CEC and CPUC submit a Joint Agency Reliability Report by December 15, 2022 and quarterly thereafter.

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.

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 resolve within 270 days to the extent feasible.

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

According to the Assembly Committee on Appropriations:

This bill will likely result in cost in excess of $150,000.

1) The CPUC estimates costs of $210,000 annually to support one permanent high-level regulatory analyst, as well as about $10,000 annually in related miscellaneous and travel costs, to coordinate internally with CPUC staff and consultants, and with staff of the CEC and the CAISO, in preparation of the quarterly reliability reports, as this bill expands those reports (Public Utilities Commission Utilities Reimbursement Account).

2) The CEC was unable to provide the committee with an estimate of costs at the time this analysis was written. However, CEC costs will likely be comparable to CPUC costs—in the low to mid hundreds of thousands of dollars annually for one or two permanent positions (Energy Resources Program Account (ERPA)).

   ERPA is in a structural deficit. The CEC has overspent revenues by more than $17.4 million since fiscal year 2014-15. The CEC attributes the structural deficit to the CEC's growing role in implementing aggressive climate policies that reduce electricity consumption, thereby reducing ERPA revenues. This structural deficit limits ERPA's ability to support new programs.

SUPPORT: (Verified 10/13/23)

Clean Power Campaign (source)
Elders Climate Action, NorCal Chapter
Elders Climate Action, SoCal Chapter

Fervo Energy
Form Energy

OPPOSITION: (Verified 10/13/23)

None received

ARGUMENTS IN SUPPORT: According to the author:

> Our grid is under stress, especially as the impacts of climate change hit sooner than expected. And while California is strongly committed to accelerating clean energy deployment, it has yet to tackle plans for achieving a truly zero carbon, reliable electricity grid. In fact, in just the past few months several of our state agencies responsible for grid reliability have opted for extending the life of once through cooled power plants to address emergency energy demand, and increasing natural gas storage at the Aliso Canyon Natural Gas storage facility. In order for the state to meet its clean energy and reliability goals, it needs to add more transparency and better energy forecasting and planning. Tracking the progress and impediments to meeting our state energy goals should not be buried in multiple links and online reports but accessible through a user friendly dashboard charter both progress and shortcomings in order for both state and public/private partners to find the best solutions to improve our grid reliance and decarbonization.

GOVERNOR'S VETO MESSAGE:

> This bill would require the California Energy Commission (CEC) and the California Public Utilities Commission (CPUC) to include in their quarterly Joint Reliability Planning Assessment (JRPA) status updates on transmission projects, energy infrastructure projects, and the use of fossil fuels as part of the Strategic Reliability Reserve, and to post this information online.
>
> While I support the author's attempt to daylight the development and use of specific energy infrastructure, this bill is redundant of existing efforts and duplicates requirements in other bills that I recently signed. To achieve our clean energy and climate goals, we must ensure that the relevant agencies' planning and reporting efforts are coordinated and aligned. Unfortunately, this bill does not achieve that objective.

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: Nidia Bautista / E., U. & C. / (916) 651-4107
10/19/23 11:12:59

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

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VETO

Bill No: SB 665
Author: Allen (D)
Amended: 9/7/23
Vote: 27

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

SENATE FLOOR: 39-0, 9/14/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, 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: Bradford

ASSEMBLY FLOOR: 74-0, 9/13/23 - See last page for vote

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.

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 10/13/23)

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 10/13/23)

None received

GOVERNOR'S VETO MESSAGE:

> This bill would require the California Environmental Protection Agency to establish a working group of state entities to develop a policy framework by July l , 2026, for evaluating plastic alternatives in order to inform policy decisions designed to create a more sustainable and circular economy.
>
> I thank the author for the commitment to reduce plastic pollution and support California's transition to a circular economy. However, the creation of a new working group is unnecessary and duplicative of existing efforts within my Administration.
>
> Last year, I signed the Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54, Chapter 75, Statutes of 2022), which established a comprehensive regulatory framework and aggressive goals to reduce single-use plastic in this state. To implement this framework and meet its statutory requirements, the Department of Resources Recycling and Recovery is in the process of conducting needs assessments, source reduction studies, end market studies, industry surveys, and waste characterization studies. This work, coupled with other Administration efforts, will provide insight for the same policy objectives this bill seeks to achieve.
>
> .

ASSEMBLY FLOOR: 74-0, 9/13/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, 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, 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, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NO VOTE RECORDED: Bauer-Kahan, Chen, Jackson, Jones-Sawyer, Luz Rivas, Sanchez

Prepared by: Brynn Cook / E.Q. / (916) 651-4108
10/25/23 10:56:05

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

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VETO

Bill No: SB 686
Author: Durazo (D), et al.
Amended: 9/8/23
Vote: 27

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

SENATE FLOOR: 27-8, 9/14/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Bradford, Caballero, Cortese, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Alvarado-Gil, Blakespear, Dodd, Glazer, Min

ASSEMBLY FLOOR: 65-2, 9/13/23 - See last page for vote

SUBJECT: Domestic workers: occupational safety

SOURCE: California Domestic Workers Coalition
California Employment Lawyers Association

California Immigrant Policy Center
Equal Rights Advocates
National Union of Healthcare Workers
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.

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 10/10/23)

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 Americans for Community Involvement
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 10/10/23)

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.

GOVERNOR'S VETO MESSAGE:

> This bill, among other provisions, would require all household domestic service employers to comply with and adhere to all applicable occupational safety and health regulations by January 1, 2025, and remove the exemption of domestic workers from safety and health laws, with the exception of services that are publicly funded.
>
> While I commend the author for the commitment to the wellbeing of workers in our state and share the spirit behind the legislation, new laws in this area must recognize that private households and families cannot be regulated in the exact same manner as traditional businesses.
>
> SB 686 as written would make private household employers immediately subject to the full set of existing workplace safety and health regulations governing businesses in the state, starting January 1, 2025. These obligations range from the requirement to establish an effective Injury and Illness Prevention Program to providing an eyewash station if household workers use chemicals like bleach, to implementing a Hazard Communication Program. Additionally, the current penalty scheme was meant for businesses and not private individuals. For a domestic employer covered by SB 686, these penalties could be up to $15,000 per violation depending on the circumstances.

That said, my Administration is committed to the wellbeing of domestic workers. I just signed a budget that includes $35 million in funding for grants to community-based organizations for domestic worker education and outreach. And two years ago, I signed SB 321, which established an advisory committee to make recommendations on how to protect the health and safety of domestic service employees. The committee discussed the importance of allowing employers the opportunity to learn about their obligations and correct any violations voluntarily before formal enforcement occurs. Unfortunately, SB 686 does not identify which specific standards domestic employers would be required to follow, nor does it outline an industry-specific system for investigation or enforcement as discussed and recommended by the Advisory Committee.

The households that employ domestic workers include middle- and low-income families and older Californians who require daily assistance, ranging from personal care to home cleaning to childcare. I am particularly concerned given that approximately 44% of the households that employ domestic workers are low-income themselves, that this bill creates severe cost burdens and penalties for many people who cannot afford them.

ASSEMBLY FLOOR: 65-2, 9/13/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Davies, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, 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, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Mathis, Sanchez
NO VOTE RECORDED: Bauer-Kahan, Chen, Megan Dahle, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Jim Patterson, Joe Patterson, Luz Rivas, Ta

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
10/19/23 11:12:59

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

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VETO

Bill No: SB 694
Author: Eggman (D)
Amended: 9/1/23
Vote: 27

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

SENATE FLOOR: 39-0, 9/13/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

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

SUBJECT: Medi-Cal: self-measured blood pressure devices and services

SOURCE: American Heart Association
California Chronic Care Coalition

DIGEST: This bill adds self-measured blood pressure (SMBP) devices and SMBP services, as defined, as covered benefits under the Medi-Cal program for the treatment of high blood pressure.

ANALYSIS:

Existing law:

1) Establishes the Medi-Cal program, administered by the Department of Health Care Services (DHCS), under which low-income individuals are eligible for medical coverage. [WIC §14000, et seq.]

2) Establishes a schedule of benefits under the Medi-Cal program, which includes benefits required under federal law and benefits provided at the state's option but for which federal financial participation through Medicaid is available. The schedule of benefits includes outpatient services, durable medical equipment, and medical supplies. [WIC §14132]

This bill:

1) Adds SMBP devices as a covered benefit under the Medi-Cal program. States that "SMBP device" includes, but is not limited to, an automated blood pressure monitor or a blood pressure cuff. States that the intent of the Legislature is to cover the same scope of devices that are recognized under Healthcare Common Procedure Coding System (HCPCS) Code A4670, A4663, or A4670, or their respective successors.

2) Adds SMBP services as a covered benefit under the Medi-Cal program. States that "SMBP service" includes, but is not limited to, staff time for patient education and training, separate self-measurements, collection of daily reports by the patient or caregiver to the health care provider, or communication of blood pressure readings and treatment plans to the patient, only to the extent that additional support and education are required and documented by the provider. States that the intent of the Legislature that covered SMBP services be consistent in scope with services that are recognized under CPT Code 99473 or 99474, or their respective successors.

3) Conditions the implementation of this bill upon the receipt of federal approvals and federal financial participation.

4) Makes legislative findings that DHCS covers SMBP devices under Medi-Cal Rx as a pharmacy-billed item and that various states provide coverage for SMBP devices, services, or both. Declares the Legislature's intent to statutorily cover as benefits in the Medi-Cal program, not only SMBP devices, but also SMBP services, for the purposes of promoting the health of Medi-Cal beneficiaries with hypertension or another diagnosis that supports the use of an at-home blood pressure monitor.

Comments

1) *Author's statement.* According to the author, almost 30% of adults in California have been diagnosed with high blood pressure, with communities of color, particularly African-Americans and American Indians, being disproportionately impacted. High blood pressure is a major, yet controllable, risk factor contributing to heart disease and stroke, two of the leading causes of death worldwide, as well as maternal mortality, and kidney damage. SMBP monitoring is an evidence-based strategy that can improve blood pressure control for individuals with high blood pressure and is most effective when an individual has access to a validated blood pressure device for home use coupled with ongoing clinical support. California's Medi-Cal program, which serves over 15 million low-income Californians, has currently adopted the uniform medical billing code for SMBP devices, but not the accompanying clinical services to evaluate and educate patients using such devices. Providing SMBP services to Medi-Cal recipients can help them to monitor and ultimately better control their blood pressure. It will also help those patients who have high blood pressure readings in the doctor's office, due to anxiety avoid unneeded medication.

2) *Hypertension prevalence and disparities.* According to a 2021 report on chronic conditions by the California Health Care Foundation, in 2019, high blood pressure, also known as hypertension, was the second most common chronic condition in California. As with most chronic conditions, the prevalence rates are not distributed proportionately among the various racial and ethnic groups in California. Native Hawaiian/Pacific Islander, Black, and American Indian/Alaska Native Californians have a prevalence rate of 42.8%, 38.3%, and 36.5% respectively. On the other hand, white, Latinx, and Asian American Californians have a prevalence rate of 28.6%, 22.9%, and 21.6% respectively. Other reports, including the American Heart Association journal, have a higher prevalence rate for Latinx, particularly subgroups such as males or youth.

3) *Current Medi-Cal coverage of SMBP devices and services.* SMBP devices are blood pressure monitors and cuffs that individuals can use at home to monitor their blood pressure. SMBP services includes the medical staff time needed to make use of the patient-collected blood pressure information, including time to review the results of SMBP devices, device calibration, and patient education. Like many devices and services, these are not specifically listed in state law as a Medi-Cal benefit. With certain exceptions, state law establishes broad categories of benefits that are covered, subject to utilization controls designed to establish whether the device or service is medically necessary. DHCS describes the details of covered benefits, and establishes and updates utilization controls in various Medi-Cal provider manuals. SMBP devices have long been covered in the provider manuals as durable medical equipment. Prior to the establishment of Medi-Cal Rx, which carved out pharmacy services from Medi-Cal managed care plans into a statewide prescription drug coverage program, plans often covered SMBP devices as pharmacy benefits instead because obtaining such devices at a pharmacy was simpler than an order for durable medical equipment. When Medi-Cal Rx made this no longer possible for plans, Medi-Cal consumers began having difficulty accessing SMBP devices in a timely manner. DHCS announced that effective June 1, 2022, SMBP monitors and cuffs would be a covered benefit under Medi-Cal Rx as a pharmacy-billed item. This bill does not change how SMBP devices are covered; it merely codifies the coverage.

   On the other hand, while SMBP services would ostensibly be covered as medically necessary services, the provider manuals make no mention of these services nor of the codes described in this bill, thus billing for these services could be difficult. The Cardiology section of the General Medicine manual does describe coverage for ambulatory blood pressure monitoring, which involves a more complicated device that is worn by the individual continuously so that automated blood pressure readings may be taken. The description of ambulatory blood pressure monitoring includes interpretation of the results by a Medi-Cal provider. Providers may still be able to bill for these services through a managed care plan, though absent specific mention in the provider manual, coverage by all plans is not guaranteed. According to 2022 analysis by the American Medical Association, 19 other states provide specified coverage for the SMBP services as proposed in this bill, and another three states provide specified coverage for at least the initial the patient education and training and device calibration that this bill would require.

4) *California Health Benefits Review Program (CHBRP) analysis*. AB 1996 (Thomson, Chapter 795, Statutes of 2002) requests the University of California

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

a) *Coverage impacts and enrollees covered.* While coverage (and utilization) of the SMBP devices is not expected to change, there would be an increase in both coverage and utilization for SMBP education/calibration and 30-day data collection services. Coverage for the education/calibration service would increase from 91% of enrollees at baseline to 100% postmandate, and coverage for the data collection service would increase from 74% at baseline to 100%. This will result in an additional coverage for 986,130 enrollees and 2,848,820 enrollees for the services related to the devices.
b) *Medical effectiveness.* A preponderance of evidence suggests that, relative to usual care, SMBP devices are effective at supporting clinically significant reductions of systolic and diastolic blood pressure but are not effective at supporting blood pressure control (defined as achieving a blood pressure level below a threshold identified by the patient's provider or by study coordinators). There is insufficient evidence to assess the direct impact of SMBP devices on complications of hypertension, quality of life, or use of acute care services, although they are associated with reduction in blood pressure, which can reduce the risk that a person with hypertension will develop complications or need acute care services. There is insufficient evidence to assess the impact of the SMBP device-related services required by this bill.
c) *Utilization.* To estimate the utilization that is expected in 30-day data collection service for the 26% of Medi-Cal beneficiaries who would gain coverage postmandate, the number of persons with new coverage (2,848,820 854) was multiplied by the utilization rate for those who were already covered. At baseline, utilization rate of education/calibration service for those with coverage was .0012% of total beneficiaries or .046% of beneficiaries who received the devices. Postmandate, the utilization for the 3,468,854 who received additional coverage would be 64 services. The total service use would increase postmandate from 130 to 170, an increase of .30.1%. In sum, there would be no increase in use of devices postmandate, an increase in education/calibration of 110 services, and an increase in 30-day data collection of 40 services.
d) *Impact on expenditures.* Unit costs (the amounts providers can receive for providing the devices and the services) are limited: $43 for the device, $14

for the education/calibration service, and $11 for the 30-day data collection service. Increased utilization at these rates would raise total 2024 expenditures by Medi-Cal for enrollees from $36,606,800,000 to $36,606,802,000, an increase of $2,000 (0.000005%). Given the small change in utilization and overall cost ($2000) postmandate, there is expected to be only a minimal (<.01%) change on administrative expenses.

e) *Public health*. Although SMBP devices are found to be medically effective in helping people lower their blood pressure values, CHBRP concludes that passage of this bill would have no measurable short-term public health impact due to a marginal increase in previously low levels of utilization. For these reasons, CHBRP also concludes that this bill would have no measurable impact on disparities in health outcomes (by gender, race/ethnicity, sexual orientation/gender identity, or other determinants) in the first 12 months. It also would have no impact on premature death and societal economic losses. However, CHBRP also concludes that in the long term, there is potential for a public health impact should awareness of coverage and subsequent utilization expand among Medi-Cal providers and beneficiaries. The analysis states that Medi-Cal beneficiaries with hypertension who receive and use an SMBP device may be better able to lower their blood pressure values. Lower blood pressure (even if not fully controlled) is associated with better cardiovascular outcomes: fewer strokes, less cardiovascular disease, and less kidney failure.

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

According to the Assembly Appropriations Committee DHCS estimates costs of approximately $5 million per year for SMBP services ($2 million to $2.5 million General Fund).

SUPPORT: (Verified 9/11/23)

American Heart Association (co-source)
California Chronic Care Coalition (co-source)
American College of Obstetricians and Gynecologists District IX
California Academy of Family Physicians
California Black Health Network
California Chapter American College of Cardiology
California Health+Advocates
California Retired Teachers Association
Center for Elders' Independence
Community Clinic Association of Los Angeles County

Public Health Advocates
Western Center on Law & Poverty

OPPOSITION: (Verified 9/11/23)

None received

ARGUMENTS IN SUPPORT: Co-sponsors American Heart Association and California Chronic Care Coalition write that improving the diagnosis, treatment, and control of hypertension is critical for improving the cardiovascular health of all Americans and reducing major cost drivers in the health care system. A key component to achieve this is SMBP monitoring, an evidence-based strategy that can improve blood pressure control for individuals with hypertension. They state that several national and international hypertension guidelines, including the American Heart Association and American College of Cardiology have included it in their recommendations as useful for helping confirm diagnosis of high blood pressure along with assisting in titration of blood pressure-lowering medications. The US Surgeon General and the American Medical Association have also affirmed the importance of SMBP monitoring to manage hypertension. In addition to the health and economic impacts, they also point to the racial disparities and the particular impact of high blood pressure on maternal health. Finally, they state that by codifying Medi-Cal coverage of SMBP devices and services, this bill would provide clarity to health care providers, guarantee coverage for patients, and save state resources.
None received

GOVERNOR'S VETO MESSAGE:

> This bill would require self-measured blood pressure devices and related services to be covered benefits within the Medi-Cal program.
>
> While I appreciate the author's goal to support Medi-Cal beneficiaries with hypertension and related conditions, new Medi-Cal benefits must be considered as part of the annual budget process. In 2022, the Department of Health Care Services (DHCS) added coverage for self-measured blood pressure devices into the Medi-Cal pharmacy benefit. However, the addition of patient education, data collection, and required communication about treatment plans is an expansion of covered services. DHCS estimates additional annual costs to the Medi-Cal program in the millions of dollars from the General Fund to

implement this bill. These costs must be considered alongside other budgetary priorities.

In partnership with the Legislature, we enacted a budget that closed a shortfall of more than $30 billion through balanced solutions that avoided deep program cuts and protected education, health care, climate, public safety, and social service programs that are relied on by millions of Californians. This year, however, the Legislature sent me bills outside of this budget process that, if all enacted, would add nearly $19 billion of unaccounted costs in the budget, of which $11 billion would be ongoing. With our state facing continuing economic risk and revenue uncertainty, it is important to remain disciplined when considering bills with significant fiscal implications, such as this measure.

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, Jackson, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, 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: Jones-Sawyer, McKinnor

Prepared by: Jen Flory / HEALTH / (916) 651-4111
10/19/23 10:47:59

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

Office of Senate Floor Analyses
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VETO

Bill No: SB 702
Author: Limón (D), et al.
Amended: 9/7/23
Vote: 27

SENATE GOVERNMENTAL ORG. COMMITTEE: 15-0, 4/11/23
AYES: Dodd, Wilk, Alvarado-Gil, Archuleta, Ashby, Bradford, Glazer, Jones, Nguyen, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto

SENATE JUDICIARY COMMITTEE: 11-0, 4/18/23
AYES: Umberg, Wilk, Allen, Ashby, Caballero, Durazo, Laird, McGuire, Min, Niello, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 38-0, 5/15/23
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, Seyarto, Skinner, Stern, Umberg, Wahab, Wiener, Wilk
NO VOTE RECORDED: Rubio, Smallwood-Cuevas

SENATE FLOOR: 39-0, 9/12/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 78-0, 9/11/23 - See last page for vote

SUBJECT: Gubernatorial appointments: report

SOURCE: Hispanas Organized for Political Equality

DIGEST: This bill requires the office of the Governor to maintain on its internet website a list of every state board and commission, including specified data of every state board and commission. In addition, this bill requires the office of the Governor to publish on its internet website a report that contains aggregate demographic information of appointments by the office of the Governor, as specified.

ANALYSIS:

Existing law:

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

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

3) Establishes various boards and commissions within state government.

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

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

This bill:

1) Requires the office of the Governor, beginning on January 1, 2025, to maintain on its internet website a list of each board or commission, as well as the board or commission's membership list, stated purpose, duties, meeting frequency, internet website, and any vacancies in its membership.

2) Requires the office of the Governor, on or before January 1, 2026, and each January 1 thereafter, to create and publish on its internet website a report that contains aggregate demographic information, to the extent available, of appointments by the office of the Governor from January 1 to December 31 of the previous year.

3) Provides that "demographic information" includes, but is not limited to, the voluntary self-reported ethnicity, gender, disability, status, region, party affiliation, and veteran status of the appointed individual.

Background

Purpose of this bill. According to the author's office, "to ensure California's leadership reflects its greater population, the collection of gubernatorial appointee demographic data is a critical step to achieving gender, racial, and ethnic equity on boards and commissions. The annual report will serve as a tool to show where gaps in representation exists, encourage outreach to communities of interest, and address any barriers. Increasing the diversity of California's board and commission members will ensure we reflect the rich diversity of California's population, creating a stronger state, and more equitable communities."

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

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

Governor Newsom's Vetoes. This bill is similar to last year's SB 1387 (Limón, 2022) and SB 702 ((Limón, 2021) which were both vetoed by Governor Newsom. Governor's veto message for SB 1387 read:

This bill would require the Governor's Office to annually publish a report containing demographic information of individuals appointed by the Governor, including additional information that is not currently available.

I am deeply committed to making appointments at every level of government that reflect California's diversity. My office makes an intentional, transparent effort to build a diverse and qualified pool of candidates for these positions.

However, implementing this bill is estimated to cost millions of dollars not accounted for in the budget to update the appointments application system to track and report additional data points. With our state facing lower-than-expected revenues over the first few months of this fiscal year, it is important to remain disciplined when it comes to spending.

The Legislature sent measures with potential costs of well over $20 billion in one-time spending commitments and more than $10 billion in ongoing commitments not accounted for in the state budget. Bills with significant fiscal impact, such as this measure, should be considered and accounted for as part of the annual budget process.

Related/Prior Legislation

SB 1387 (Limón, 2022) would have required the office of the Governor to publish a report containing the demographic information of individuals who have applied to or been appointed to a state board or commission. Additionally, the bill creates a working group to discuss and provide recommendations on ways to diversify state boards and commissions. (Vetoed by Governor Newsom)

SB 17 (Pan, 2021) would have established in state government an Office of Racial Equity (ORE), as an independent public entity not affiliated with an agency or department, as specified; and, tasks the ORE with, among other things, coordinating, analyzing, developing, evaluating, and recommending strategies for advancing racial equity across state agencies, departments, and the Office of the Governor, as specified. (Held in the Assembly Appropriations Suspense File)

SB 702 (Limón, 2021) would have required the office of the Governor to publish a report containing the demographic information of individuals who have applied to or been appointed to a state board or commission. Additionally, the bill would have created a working group to discuss and provide recommendations on ways to diversity state boards and commissions. (Vetoed by Governor Newsom)

AB 979 (Holden, Chapter 316, Statutes of 2020) required publicly held corporations to fill their board seats with a minimum number of directors from underrepresented communities, as specified.

AB 931 (Boerner Horvath, Chapter 813, Statutes of 2019) prohibited the membership of appointed boards and commissions in cities with a population of 50,000 or more from having more than 60% of the same gender identity on or after January 2, 2030 and specifies that smaller boards and commissions must not be compromised of members having the same gender identity.

SB 826 (Jackson, Chapter 954, Statutes of 2018) required publicly held corporations with its principal executive offices in California to have specified numbers of female board members, depending on the size of the board, and required the Secretary of State to levy fines on businesses that do not comply.

SB 984 (Skinner, 2018) would have required state boards and commissions to have at least one female member if the board is four or fewer members, or at least 40 percent female membership on boards or commissions with five or more members. (Held in the Assembly Appropriations Committee Suspense File)

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

According to the Assembly Appropriations Committee, costs of an unknown, but potentially significant, amount to create and publish the specified report. Since the primary purpose of this bill is to create a report, this bill is eligible for this committee's suspense file.

SUPPORT: (Verified 10/11/23)

Hispanas Organized for Political Equality (source)
Alliance for A Better Community
California Commission on The Status of Women and Girls
California Community Colleges Organización De Latinx Empowerment, Guidance, and Advocacy for Success
Campaign for College Opportunity
Courage California
Inland Coalition for Immigrant Justice
Long Beach Community College District
National Association of Latino Elected and Appointed Officials
National Women's Political Caucus of California
Rio Hondo College
Santa Cruz Community Ventures

Santa Monica Community College District
The Coalition
The League of Women Voters of California
The Unity Council

OPPOSITION: (Verified 10/11/23)

None received

ARGUMENTS IN SUPPORT: Hispanas Organized for Political Equality argue that, "regardless of the state's leadership, this bill established long-overdue guidance, transparency, and accountability in the gubernatorial appointment review process. Collecting gubernatorial appointee demographic data is a critical step to achieving gender, racial, and ethnic equity on boards and commissions. Ultimately, the report would serve as a tool to highlight progress and where more outreach and resources are needed to ensure that boards and commissions reflect California's diversity."

GOVERNOR'S VETO MESSAGE:

> This bill would require the Governor's Office to annually publish a report on its website containing aggregate demographic information of individuals appointed by the Governor.
>
> I continue to be deeply committed to making appointments at every level of government that reflect California's diversity. My office makes an intentional, transparent effort to continuously engage with the Legislature, community partners, nonprofits, and other stakeholders to build a diverse and qualified pool of candidates for these positions. I am deeply proud of the diverse group of Californians who now serve our state in senior, appointed leadership positions.
>
> While I understand the author's goal, the demographic information specified for reporting under this bill is optional and self-reported by candidates. Consequently, the report required by this bill would not necessarily accurately reflect the diversity of appointees. I have vetoed a similar measure for this reason, and my concern remains.

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, 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: Mathis, Sanchez

Prepared by: Felipe Lopez / G.O. / (916) 651-1530
10/19/23 11:13:00

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

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VETO

Bill No: SB 716
Author: Alvarado-Gil (D)
Introduced: 2/16/23
Vote: 27

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/12/23
AYES: Cortese, Wilk, Durazo, Laird, Smallwood-Cuevas

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, 5/25/23
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, 9/13/23 - See last page for vote

SUBJECT: Excluded employees: binding arbitration

SOURCE: California Correctional Supervisors Organization

DIGEST: This bill gives state excluded employees, such as managers and supervisors, the option of requesting binding arbitration as a method for resolving disputes with their state employers after first exhausting the current grievance resolution procedures.

ANALYSIS:

Existing law:

1) Establishes the Ralph C. Dills Act (Dills Act) which sets forth a framework that governs labor relations between the State of California and state employees, except for specified managerial, confidential and supervisory employees. (Government Code § 3512-3524)

2) Provides the following definitions (GC § 3527):

    a) Defines "employee" as a civil service employee of the State of California, including state agencies, boards, and commissions designated by law to employ civil service employees, except the University of California, Hastings College of the Law, and the California State University.
    b) Excepts from the definition of state "employee," managerial employees, confidential employees, supervisory employees, and other employees, as defined.
    c) Defines "excluded employee organization" as one that includes excluded employees of the state and that has as one of its primary purposes representing its members in employer-employee relations, including supervisory employee organizations.
    d) Defines "state employer" or "employer," for purposes of meeting and conferring on matters relating to supervisory employer-employee relations, as the Governor or his or her designated representatives.

3) Establishes the Bill of Rights for State Excluded Employees to inform state supervisory, managerial, confidential, and employees otherwise excepted from coverage under the Dills Act, of their rights and terms and conditions of employment, as specified, and serves to promote harmonious personnel relations among those representing state management in the conduct of state affairs. (GC § 3526)

4) Authorizes supervisory employees to form, join and participate in the activities of supervisory employee organizations of their own choosing for purposes of representation on all matters of supervisory employer-employee relations, as specified, or to refrain from so doing. They also have the right to represent themselves individually in their employment relations with the public employer. (GC § 3531)

5) Provides excluded employee organizations with the right to represent their excluded members in their employment relations, including grievances, with the State of California. (GC § 3530)

6) Specifies that the scope of representation for supervisory employees includes all matters relating to employment conditions and supervisory employer-employee relations including wages, hours, and other terms and conditions of employment. (GC § 3532)

7) Authorizes the California Department of Human Resources (CalHR) to adopt reasonable rules and regulations for the administration of employer-employee relations, including excluded employer-employee relations. (GC § 3535)

This bill:

1) Declares the intent of the Legislature, and makes several findings and declarations to the effect, that state excluded employees have the right to arbitration as a fifth step to the excluded employee grievance procedure; and states that the present grievance procedure leaves too many grievances unresolved resulting in more cases being filed in California's courts, which could have been resolved at a lower level.

2) Creates the Excluded Employee Arbitration Act which authorizes an employee organization representing an employee who has filed a grievance with the Department of Human Resources (CalHR) to request arbitration of the grievance if all of the following conditions are met:

    a) The grievance alleges a dispute that is subject to the procedures established in Section 599.859 of Title 2 of the CA Code of Regulations, as it read on January 1, 2022;
    b) The grievance has not been resolved to the employee organization's satisfaction after either of the following, as applicable, pursuant to the department's regulations governing grievances for excluded employees: (1) the fourth level of review; or (2) in cases where there is no fourth level of review, the third level of review; and
    c) The employee organization requests arbitration in writing, submitted to the department, within 21 days of a decision rendered in either of the following, as applicable: (1) the fourth level of review; or (2) in cases where there is no fourth level of review, the third level of review.

3) Provides, among others, the following definitions:

   a) "Excluded employee" means an excluded employee of the state, as defined in GC § 3527 (b).
   b) "Employer" means the State of California
   c) "Arbitration" means the process that results in a binding ruling that resolves an excluded employee grievance as the final level of the excluded employee grievance process.

4) Requires CalHR and the employee organization, after the parties make a request for arbitration, to designate a standing panel of at least 20 arbitrators to be available for resolving arbitration cases authorized by this bill.

5) Provides that if fewer than three arbitrators are available, then the employee organization or the employer may obtain the names of an additional five arbitrators from the California State Mediation and Conciliation Service within the Public Employment Relations Board.

6) Creates a process whereby the employee organization and the employer can consecutively strike any arbitrator from the standing panel until the name of one arbitrator is agreed upon, or, if no agreement is made, the last remaining person on the panel shall be designated the arbitrator and their name submitted in writing to CalHR.

7) Provides that if the employee organization does not submit its choice of an arbitrator within 45 days after requesting arbitration, the request for arbitration shall be considered withdrawn. However, a withdrawn request shall not prevent the employee from pursuing other grievance procedures available by law.

8) Provides that a party to the arbitration has the right to have a certified shorthand reporter transcribe the proceeding, the transcript of which will be the official record.

9) Requires that the arbitrator apply California law to the facts and base the decision solely on the written record in the grievance, the grievance response, and the oral presentations made at the arbitration.

10) Specifies that the arbitrator's decision shall be legally binding and requires the arbitrator to issue a written decision within 45 days of the conclusion of the hearing.

11) Requires the arbitrator to order that the non-prevailing party pay the cost of the arbitration, including the costs of a certified shorthand reporter, however, the arbitrator is prohibited from ordering the excluded employee to pay these costs and specifies that the costs of the arbitration and the reporter cannot be passed on to the excluded employee.

12) Contains a sunset clause that repeals the bill's provisions on January 1, 2029.

Comments

Need for this bill. Existing law gives most California state employees the right to form, join, and participate, or refuse to join or participate, in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. However, state law excludes managerial, confidential and supervisorial employees from participating or joining those organizations. (GC §3515 et seq.)

Existing law, under the Excluded Employees Bill of Rights, does authorize supervisory employees the right to form, join, and participate in the activities of supervisory employee organizations of their own choosing for the purpose of representation on all matters of supervisory employer-employee relations and requires the state to meet and confer with excluded employee organizations, as specified, but also provides that the final determination of policy or course of action in such matters, including grievances, is the sole responsibility of the state employer. (GC §3533)

Existing Grievance Procedures. Current law authorizes CalHR to adopt rules and regulations for the administration of employer-employee relations. CalHR has adopted Grievance and Appeal Procedures for excluded employees under Title 2, California Code of Regulations Section 599.859. Under these procedures, if an excluded employee has a grievance against his or her employer, the regulations establish levels of administrative review that the employee must exhaust before he or she can file a civil action in court to litigate the matter. The grievance procedure includes the following levels of review:

- Informal Discussion: Within five work days of the incident, an informal discussion between the excluded employee and the employee's supervisor or manager. If the parties do not settle the grievance within the five days, the employee may file a written grievance.

- Formal Grievance - Level 1: If unsatisfied with the informal review, the employee may file a formal grievance within 10 workdays of the incident and the employer's designee for the first level of review must respond within 10 working days.

- Formal Grievance - Level 2: The employee may appeal the employer's Level 1 decision within 10 workdays of receipt of the response and the employer's designee for the second level of review must respond within 15 workdays.

- Formal Grievance - Level 3: The employee may appeal the employer's Level 2 decision within 10 workdays of receipt of the employer's response and the employer's designee for the third level of review must respond within 15 workdays.

- Formal Grievance - Level 4: The employee may appeal the employer's Level 3 decision to CalHR within 10 workdays of receipt of the employer's response and CalHR's designee for the fourth level of review must respond within 20 workdays.

  If the parties fail to reach a satisfactory resolution after the fourth level of review, the excluded employee or the employee organization representing the employee may pursue a claim with the appropriate entity including the State Personnel Board, the Department of Fair Employment and Housing, or the State Superior Court.

Related/Prior Legislation

AB 1714 (Cooper, 2022) was substantially identical to this bill. The bill passed both houses but the Governor vetoed the bill.

SB 1406 (Durazo, 2022) was virtually identical to this bill and AB 1714 (Cooper, 2022), except that SB 1406 did not have a sunset date in its provisions. The Governor vetoed SB 1406.

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

According to the Senate Appropriations Committee, the CalHR indicates that it would incur increased staffing costs representing itself and other departments in arbitration proceedings as a result of this bill. The number of additional grievances/arbitrations that would result from this bill is unknown; specifically, CalHR estimates a cost of $56,000 per arbitration (General Fund). However, this bill's costs would be partially offset to the extent that CalHR were to win arbitration proceedings.

Additionally, CalHR would require new labor relations staff with annual costs of $524,000 (General Fund).

SUPPORT: (Verified 10/12/23)

California Correctional Supervisors Organization (source)
Association of California State Supervisors
California Attorneys Administrative Law Judges and Hearing Officers in State Employment
Professional Engineers in California Government

OPPOSITION: (Verified 10/12/23)

None received

ARGUMENTS IN SUPPORT: According to the sponsor, the California Correctional Supervisors Organization, "This bill would improve the excluded employee grievance process to make it effective and would result in reduced costs to the State of California as well. Currently, the excluded employee grievance system is virtually illusory for excluded employees and is functioning at an unenforceable level. Of all the grievances filed, 99% are denied because there is no consequence for CalHR, the state agency, to not follow the rules, and there is no objective oversight. As it stands now, the state agency will deny all grievances because they believe it is in their best parochial interest and there is nowhere for the excluded employee to go, it is a closed system."

GOVERNOR'S VETO MESSAGE:

> This bill would enact the Excluded Employee Arbitration Act to provide state excluded employees the option to request binding arbitration as part of the grievance process.

Current law allows managers and supervisors to pursue resolution of disagreements through a four-step grievance process and challenge grievance decisions in court. This bill would add a costly step to this process by permitting excluded employees to arbitrate the Department of Human Resources' (CalHR) authorizing statutes, regulations, policies, and practices before nongovernmental entities. This could lead to conflicts with the statutory authority delegated to CalHR. These are the same concerns I had with previous, nearly identical bills, AB 1714 (2022), SB 76 (2021), and SB 179 (2019), which I also vetoed.

ASSEMBLY FLOOR: 80-0, 9/13/23
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: Glenn Miles / L., P.E. & R. / (916) 651-1556
10/19/23 11:13:01

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

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VETO

Bill No: SB 725
Author: Smallwood-Cuevas (D)
Amended: 9/8/23
Vote: 27

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 5-0, 4/19/23
AYES: Cortese, Wilk, Durazo, Laird, Smallwood-Cuevas

SENATE FLOOR: 33-6, 5/31/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NOES: Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto
NO VOTE RECORDED: Glazer

SENATE FLOOR: 31-8, 9/14/23
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, Wilk
NOES: Alvarado-Gil, Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto
NO VOTE RECORDED: Glazer

ASSEMBLY FLOOR: 59-15, 9/14/23 - See last page for vote

SUBJECT: Grocery workers

SOURCE: United Food and Commercial Workers, Western States Council

DIGEST: This bill requires a successor grocery employer, as specified, to provide an eligible grocery employee a payment equal to one week of pay for each full year of employment with the incumbent grocery employer if the successor

grocery employer does not hire the eligible grocery worker following a change in control or does not retain the eligible grocery worker for at least 90 days following the change in control or employment commencement date. This bill exempts a grocery establishment that has ceased operations for 12 months and not apply to successor grocery employers and incumbent grocery employers with less than 300 employees, as specified.

ANALYSIS:

Existing law:

1) Provides for a transition employment period for eligible grocery workers by requiring a successor grocery employer to hire from a list of eligible grocery workers provided by the incumbent grocery employer and to retain those employees for 90 days, except as specified.

2) Requires that grocery establishments, when a change in control occurs, do the following:

   a) An incumbent grocery employer, within 15 days after the execution of the transfer document, to provide the successor grocery employer the name, address, date of hire, and employment occupation classification of each eligible grocery worker.

   b) The successor grocery employer to maintain a preferential hiring list of eligible grocery workers identified by the incumbent grocery employer and must hire from that list for a period of 90 days, as specified.

   c) During this 90-day transition employment period, eligible grocery workers to be employed under the terms and conditions established by the successor employer and pursuant to the terms of a relevant collective bargaining agreement, if any.

   d) If the successor employer determines that it requires fewer workers, the successor grocery employer shall retain eligible grocery workers by seniority, as specified.

   e) If the eligible grocery worker's performance during the 90-day transition employment period is satisfactory, the successor grocery employer to consider offering the eligible grocery worker continued employment.

3) Provides, generally, 60-70 percent of lost wages as a result of job loss.

4) Establishes the California WARN (Cal/WARN) Act, which requires employers with 75 or more full and part-time employees to provide 60 days' notice before employee termination, relocation, or mass layoff of 50 or more employees.

5) States that an employer that fails to give the required notice, as required by Cal/WARN, before ordering a mass layoff, relocation, or termination, is liable to each employee entitled to notice, for specified compensation and benefits, calculated for the period of the employer's violation, up to a maximum of 60 days, or half the number of days that the employee was employed by the employer, whichever period is smaller.

6) States that an employer who fails to give the notice, as required by Cal/WARN, is subject to a civil penalty of not more than five hundred dollars ($500) for each day of the employer's violation. Exempts an employer from this civil penalty if the employer pays all applicable employees within three weeks from the date the employer ordered the mass layoff, relocation, or termination.

7) Permits a person, including a local government, or an employee representative, seeking to establish liability against an employer for violation of Cal/WARN to bring a civil action on behalf of the person other persons similarly situated, or both, in any court of competent jurisdiction. Additionally, permits a court to award reasonable attorney's fees as part of the costs to any plaintiff who prevails in a civil action.

8) Defines "grocery establishment" as a retail store in this state 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. Other household supplies or other products shall be secondary to the primary purpose of food sales. A grocery establishment does not include a retail store that has ceased operations for 12 months or more.

9) Defines "successor grocery employer" as the person that owns, controls, or operates the grocery establishment after the change in control.

This bill:

1) Requires a successor grocery employer that owns, operates, or controls 20 or more grocery establishments to provide an eligible grocery employee a dislocated grocery worker allowance pay equal to one week of pay for each full year of employment with the incumbent grocery employer if the successor grocery employer does not hire an eligible grocery worker following a change

in control or does not retain an eligible grocery worker for at least 90 days following the change in control or the eligible grocery worker's employment commencement date.

2) Exempts an incumbent grocery employer and the successor grocery employer if they employ 300 or less grocery workers combined immediately prior to the change in control.

3) Specifies the rate of a dislocated grocery worker allowance shall be the average regular rate of compensation received during the eligible grocery worker's last three years of employment with the incumbent grocery employer or the final regular rate of compensation paid to the eligible grocery worker, whichever rate is higher, or the severance pay required pursuant to a relevant collective bargaining agreement.

4) Revises the definition of "change in control" to add the purchase or acquisition of all cash on hand.

5) Revises the definition of "grocery establishment" to include a distribution center, regardless of square footage, owned and operated by a grocery establishment and used primarily to distribute goods to or from its owned stores in the United States.

6) Revises the definition of "successor employer" to specify 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.

7) Provides that parties subject to a collective bargaining agreement may provide that the agreement supersedes the requirements of this bill, in whole or in part, but only if the agreement explicitly sets forth clear and unambiguous terms and requirements that are superseded.

Background

Last fall, Kroger, the largest full service grocery chain in the United States, and Albertson's, the second largest, announced an unprecedented $25 billion merger. Kroger, which is based in Ohio, operates 2800 stores in 35 states and includes brands such as Ralph's, Smith's, and Harris Teeter. Albertson's, based in Idaho, operates 2273 stores in 34 states and includes brands such as Safeway, Jewel Osco, and Shaw's. Together, these two businesses operate in nearly every state and employ approximately 710,000 people, with over 50 manufacturing facilities and 5,000 stores.

The United States Federal Trade Commission (FTC), as part of its regulatory review of the proposed merger, is gathering information from the industry on how it thinks the merger would impact the landscape, such as product sourcing, pricing, online operations, labor dynamics, store brand programs, and shopper data use. In 2020, the FTC blocked Kroger's proposed acquisition of Winn-Dixie, citing a violation of Section 7 of the Clayton Act (15 U.S.C. §18) and of Section 5 of the Federal Trade Commission Act (15 U.S.C. §45) due to substantial loss of competition in several markets. As a result of store closures, New Jersey passed a law in 2020 requiring employers to provide employees let go during a mass layoff with one week of severance for every year of service. In 2022, Maine followed suit by passing a similar law to require employers with 100 or more employees to provide one week of severance for every year of service, in the event of a mass layoff. This bill would likewise ensure severance for displaced employees of large grocery retailers.

Comments

Purpose of the bill. According to the author, "From 1993 to 2019, the number of grocery stores nationwide declined by roughly 30 percent. Food industry mergers and acquisitions exceeded 300 in 2019 alone and the US grocery supermarket industry is moving closer to complete concentration and monopoly as demonstrated by the series of mergers and acquisitions over the last 40 years. A hallmark of these mergers is a reduction in the workforce in the form of mass layoffs and worksite closures, which can be devastating for the workers at the site and the communities in which they live… While the notice requirements of the WARN Act and UI benefits provide some protections to workers caught in a layoff or closure, it does not require employers to provide any material support to workers trying to transition. While having the time to find new employment or partial wage replacement is helpful, it is not sufficient to deal with the costs of retraining or the uncovered living expenses while between jobs. SB 725 will limit the disruptions amongst essential grocery store workers and local communities by providing mandatory severance pay in the event there is a layoff because of a merger or consolidation. This basic protection will allow these essential workers, who have sacrificed their health and safety during the pandemic, to put food on their tables and maintain economic stability during a tumultuous time."

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

SUPPORT: (Verified 10/18/23)

United Food and Commercial Workers, Western States Council (source)
Black Women for Wellness

California Employment Lawyers Association
California Environmental Voters
California Faculty Association
California Food and Farming Network
California Immigrant Policy Center
California Labor Federation, AFL-CIO
California School Employees Association
California State Legislative Board, Sheet Metal, Air, Rail and Transportation Workers-Transportation Division
Center for Responsible Lending
Central California Environmental Justice Network
Centro Binacional Para El Desarrollo Indígena Oaxaqueno
Courage California
Economic Security Project Action
Indivisible California Statestrong
KIWA
LAX-Area Democratic Club
Los Angeles Alliance for a New Economy
Los Angeles County Federation of Labor, AFL-CIO
National Council of Jewish Women Los Angeles
Pesticide Action Network
Public Counsel
Restaurant Opportunity Center United
San Mateo Labor Council, AFL-CIO
SEIU California State Council
TechEquity Collaborative
Western Center on Law and Poverty

OPPOSITION: (Verified 10/18/23)

California Chamber of Commerce
California Grocers Association
California Retailers Association

ARGUMENTS IN SUPPORT: The United Food and Commercial Workers Union, Western States Council, states " As conclusively demonstrated, and legally affirmed during the pandemic, grocery store workers with the experience and skill in the safe and sanitary storage and sale of food are essential to the health and well-being of every neighborhood. Building on current law and the lessons of the pandemic, SB 725 enacts new reforms by providing grocery store workers a safety net to prevent and curb the effects of layoffs of grocery workers and licensed

medicine-dispensing pharmacy staff who work in grocery store pharmacies; layoffs that would, if unrestrained by the public interest, abruptly and irrevocably compel skilled workers to seek employment elsewhere, draining neighborhoods of their essential skills and economic stimulus. The bill also ensures that the costs of layoffs are shared instead of being exclusively shouldered by taxpayers."

ARGUMENTS IN OPPOSITION: According to the opponent, California Grocers Association, "Collectively, the provisions of SB 725 will have a significant chilling effect, discouraging growth of the grocery industry and thereby limiting access to employment opportunities for Californians…Under current law, eligible grocers are obligated to provide detailed information to the successor grocer on contact information of eligible grocery workers. And during this 90-day transition period, eligible grocery workers are offered the same terms of employment as established by the incumbent grocer (including the conditions of a collective bargaining agreement). More importantly, successor grocers are not lawfully authorized to discharge an eligible grocer worker during this transition period without cause…Moreover, it is unclear why the entirety of Part 9.5 of Division 2 of the California Labor Code, which is specific to grocery workers, would apply to distribution centers and warehouses, which serve separate and distinct functions."

GOVERNOR'S VETO MESSAGE:

> This bill would require a successor grocery employer to provide an eligible grocery employee a dislocated worker allowance equal to one week of pay for each year of employment with the incumbent grocery employer, if the successor grocery employer does not hire or retain an eligible grocery worker as required in grocery worker retention laws.
>
> While the goal of limiting the disruptions caused by grocery mergers and acquisitions amongst essential grocery store workers and local communities is laudable, existing law already provides protections for displaced workers, including WARN Act notice requirements, grocery worker retention requirements which require successor grocery employers to retain eligible grocery workers for 90-days during a store transitionary period, and unemployment insurance benefits. The additional obligations in this bill are unduly prescriptive and overly burdensome.

ASSEMBLY FLOOR: 59-15, 9/14/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, 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, Rendon, Reyes, Luz Rivas, Rodriguez, Santiago, Schiavo, Soria, Ting, Waldron, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Wallis
NO VOTE RECORDED: Lackey, Stephanie Nguyen, Pacheco, Blanca Rubio, Valencia, Villapudua

Prepared by: Dawn Clover / L., P.E. & R. / (916) 651-1556
10/25/23 10:56:05

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

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VETO

Bill No: SB 728
Author: Limón (D)
Amended: 9/7/23
Vote: 27

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-2, 4/26/23
AYES: Allen, Gonzalez, Hurtado, Menjivar, Skinner
NOES: Dahle, Jones

SENATE FLOOR: 31-9, 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
NOES: Alvarado-Gil, Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk

SENATE FLOOR: 30-9, 9/13/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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
NO VOTE RECORDED: Caballero

ASSEMBLY FLOOR: 53-18, 9/12/23 - See last page for vote

SUBJECT: Plastic gift cards: prohibition

SOURCE: Author

DIGEST: This bill prohibits plastic gift cards from being sold, offered for sale, or distributed in the state on and after January 1, 2027, except that retailers are

authorized to sell their existing stock until January 1, 2028. These provisions are enforced through a civil penalty up to $100 per day.

ANALYSIS:

Existing law:

1) Establishes the Integrated Waste Management Act of 1989 (IWMA), administered by the Department of Resources Recycling and Recovery (CalRecycle). The IWMA establishes a state recycling goal that 75% of solid waste should be diverted from landfill disposal through source reduction, recycling, and composting by 2020. (Public Resources Code (PRC) §§ 40000 et. seq.)

2) Establishes a statewide "bag ban" on stores that prohibits from providing a plastic single-use carryout bag to a customer at the point of sale unless it is a reusable, compostable bag sold at not less than $0.10. (PRC §42283-42284)

3) Establishes a "plastic straw ban" that prohibits restaurants from providing single-use plastic straws to consumers unless requested by the consumer. (PRC § 42270)

This bill:

1) Bans a retail from selling, distributing, or offering for sale, plastic gift cards beginning Jan 1, 2027.

2) Allows a retailer to continue to sell, offer for sale, or distribute an existing stock of gift cards through January 1, 2028.

3) Authorizes the Attorney General, a district attorney, a county counsel, or a city attorney to enforce the bill and sets civil penalties of $25 for the first day a violation occurs and $100 per day for any subsequent violations.

4) Defines "gift card" to exclude any gift card usable with multiple sellers of goods or services, provided the expiration date is printed on the card.

Background

1) *California's waste goals.* Under the IWMA, CalRecycle is tasked with reducing the amount of waste that gets landfilled in California. The IWMA establishes a goal that 75% of solid waste generated in the state be diverted from landfills through source reduction, recycling, and composting by 2020. However, according to CalRecycle's 2021 State of Disposal and Recycling, the state's

2021 recycling rate was just 40%, down from a peak of 50% in 2014. The single largest contributor to the drop comes from recyclables that were exported out of the state, though that may change given new global policies like China's National SWORD and the Basel Convention, which restrict the amount of foreign waste these countries will accept.

2) *The problem with plastic (and paths forward).* Plastics pose a threat to the environment from origin to end-of-life. Plastics are petroleum-based and have a large carbon footprint. Plastic production is responsible for three and a half percent of all greenhouse gas emissions—more 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 Program 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 natural environments.

   Once plastics enter the environment, they remain there for hundreds to thousands of years. 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). Because they are so small, microplastics can travel in the air, and water, and can be easily absorbed by living things and accumulate up the food chain. Microplastics have been found in the most pristine natural environments on earth, including in the deep ocean, Antarctic sea ice, and human placentas. Laboratory studies have found that microplastics increase the risk of cancer and disrupt hormone pathways in lab rats.

   To reduce plastic consumption and ultimately plastic waste, the Legislature passed the Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54, Allen, Chapter 75, Statutes of 2022) which sets ambitious targets to reduce plastics in packaging and single-use serviceware, including requiring all of those items to be recyclable or compostable and meet a recycling rate of 65% by 2023. This landmark legislation is one of the most sweeping measures the state has enacted to address plastic waste,

3) *Significance of gift cards in the waste stream.* Products can cause problems in the waste stream when they exist in such high volumes that they strain waste infrastructure, or contaminate the waste stream.

   a) *Amount of gift cards as plastic waste*. In 2021, nearly 3.5 billion gift cards were sold in the United States. Gift cards typically weigh one to two ounces, meaning in 2021, approximately 89 tons of gift card waste were generated. Since California makes up roughly 10% of the population of the United

States, this would translate to 8.9 tons of gift card waste in California per year – a drop in the waste bucket. CalRecycle estimates that in 2018 alone, 4.5 million tons of plastic entered landfills in California.

b) *Gift cards as waste contaminants*. California does not consider gift cards, 70% of which are made from polyvinyl chloride (PVC) plastic, to be hazardous or toxic waste. However, in the early 2000s, PVC made headlines for its harm to human and environmental health. In a 2003 article, Greenpeace wrote, "PVC is the single most environmentally damaging of all plastics." New Jersey's Department of Human Services wrote in 2008 that "PVC contains dangerous chemical additives…which can be toxic to your child's health." In 2014, the Center for Biological Diversity (CBD) petitioned the U.S. Environmental Protection Agency (EPA) to classify discarded PVC as hazardous waste. After no movement, CBD ultimately sued EPA in 2021 in *Center for Biological Diversity v. U.S. Environmental Protection Agency, et al*. In 2022, CBD and EPA reached a settlement on this case.

Despite the longstanding concern that PVC is dangerous, only a handful of studies support this conclusion. Most notably, a study by the EPA found that PVC pipes can leach vinyl chloride, a human carcinogen, into drinking water. Additional studies found that when PVC is burned, it releases dangerous chemicals, including dioxin and pyrene (chemicals that are released from many plastics when they are burned) phosgene, and hydrogen chloride that becomes hydrochloric acid in human lungs. High concentrations of these chemicals can harm human lungs and livers, and can cause vomiting and unconsciousness. While properly maintained landfills safely retain these harmful chemicals, unexpected fires or leaks into groundwater could unleash PVC's toxicity. However, there is no evidence that PVC would have an outsized impact compared to all other plastics in the case of a landfill catastrophe.

Non-plastic alternatives to gift cards. There are several alternatives to plastic gift cards already on the market, including electronic, paper, bioplastic, and even gift cards made from wooden chips. Retailers, including Amazon, Target, and iTunes, also allow customers to purchase gift codes that can be used online or through a mobile app.

Comments

1) *Purpose of Bill.* According to the author, "More than 3.4 billion gift cards were sold in the United States in 2021. The majority of these gift cards are made from PVC, which is not typically accepted for recycling. These cards often end up in the waste stream after only a single use, which is why some companies have made the switch away from plastic gift cards opting for paper, cardboard, sustainable wood, and bamboo options. SB 728 will transition from the use of plastic gift cards and ensure that businesses continue this towards more sustainable products."

2) *A small step forward.* While plastic gift cards make up just a small portion of the total plastic waste going to landfills and do not seem to be an outsized contaminant in the waste stream, they are low-hanging fruit. Given that alternatives to plastic gift cards are already on the market, banning plastic cards could be a small step towards helping the state meet its waste reduction goals.

3) *SB 54, the bill to end all bans.* In 2022, the Legislature passed the Plastic Pollution Prevention and Packaging Producer Responsibility Act (SB 54). This bill marked a significant shift in California's legislative approach to plastic-reduction policy. Rather than targeting just one waste item per bill, SB 54 encompassed a broad swath of items, including all packaging and single-use serviceware. By targeting a number of products based on their use, SB 54 avoids the "whack-a-mole" pitfall that bans can face when new products, with equivalent impacts on the waste stream, emerge to take the space of banned items. Because there are already non-plastic alternatives to gift cards on the market, SB 728 may be justified in its single focus. However, there may be related items, either by use or material type, that should be included in a plastic gift card ban to increase the impact and efficacy of this measure.

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

According to the Assembly Appropriations Committee, the Department of Justice anticipates minor and absorbable costs as a result of this bill.

SUPPORT: (Verified 10/12/23)

Californians Against Waste

OPPOSITION: (Verified 10/12/23)

California Chamber of Commerce
California Fuels and Convenience Alliance

California Grocers Association
California Manufacturers and Technology Association
California Restaurant Association
California Retailers Association
InComm Payments
Plastics Industry Association

ARGUMENTS IN SUPPORT: Californians Against Waste writes in support of this bill:

> The billions of gift cards sold each year are almost entirely made from hard plastic. The vast majority of these plastic gift cards, around 70 percent, are made from polyvinyl chloride plastic (PVC), considered by Greenpeace to be the "single most environmentally damaging of all plastics." PVC produces CO2 upon its creation and contains certain chemicals deemed hazardous by the United States Environmental Protection Agency that can pose environmental issues and concerns when discarded improperly.
>
> Plastic gift cards are also difficult to recycle. They can be melted down and shaped into new gift cards but there are serious concerns with chemical releases in this process. Also, many local recycling centers do not accept PVC gift cards due to their small and thin size interacting poorly with recycling machinery so cards intended for recycling may end up in a landfill as waste.
>
> SB 728 focuses the plastic removal effort on a long ignored and overlooked supply of harmful plastic waste and an industry that already has safe and sustainable alternatives to plastic. By prohibiting the sale of plastic gift cards, this bill may also reduce the overall plastic waste disposed in landfills, both in the United States and the plastic PVC waste exported abroad.

ARGUMENTS IN OPPOSITION: According to the Plastics Industry Association:

> While some retailers, grocers, and restaurants have moved to alternative products for gift cards, many continue to use plastic gift cards because they are a popular choice among consumers for their durability. Further, they are less likely to be damaged or rendered unusable. In addition, while digital gift cards seem like a viable alternative, this is simply not a feasible option for many. There are a substantial number of Californians, especially disadvantaged communities, who do not have access to or are not comfortable with the use of digital platforms.

GOVERNOR'S VETO MESSAGE:

This bill prohibits the sale or distribution of plastic gift cards in the state after January 2027, and enforces the ban through civil penalties of up to $100 per day.

While I support the author's goal to reduce our reliance on single-use plastic materials, I am concerned that an outright ban without any incentives for compliance will disproportionately impact the state's small business community, as digital gift cards may not be a feasible option for many businesses or consumers.

California has successfully implemented many programs to reduce our reliance on single-use plastic while incentivizing businesses to transition towards more sustainable products and materials. I encourage the Legislature to consider alternatives to a statutory, single-product ban to help meet the state's plastic waste reduction goals.

ASSEMBLY FLOOR: 53-18, 9/12/23
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, Grayson, Haney, Hart, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Rendon, Reyes, Luz Rivas, Blanca Rubio, Santiago, Schiavo, Ting, 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: Bains, Jackson, Stephanie Nguyen, Pacheco, Ramos, Rodriguez, Soria, Valencia, Villapudua

Prepared by: Brynn Cook / E.Q. / (916) 651-4108
10/25/23 15:29:59

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

SENATE RULES COMMITTEE SB 731
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

VETO

Bill No: SB 731
Author: Ashby (D), et al.
Amended: 9/1/23
Vote: 27

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, 5/25/23
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

SENATE FLOOR: 40-0, 9/7/23
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: 74-0, 9/6/23 - See last page for vote

SUBJECT: Employment discrimination: unlawful practices: work from home: disability

SOURCE: Author

DIGEST: This bill requires an employer to provide an employee who is working from home with at least 30 calendar days' advance notice, as specified, before requiring that employee to return to work in person.

ANALYSIS:

Existing federal law:

1) Requires, pursuant to the Americans with Disabilities Act (ADA), that all state and local government employers and all private employers with 15 or more employees, provide reasonable accommodation to qualified employees or applicants with disabilities, as defined, unless to do so would cause the employer undue hardship. (42 U.S.C. §§ 12101-12117, 12201-12213.)

2) Specifies that the ADA supersedes state law, except where state law provides greater protections for individuals with disabilities. (29 C.F.R. § 1630.1(c)(2).)

Existing state law:

1) Makes it an unlawful employment practice, unless based upon a bona fide occupational qualification, for an employer, because of physical disability, mental disability, or medical condition, as defined, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment. (Gov. Code § 12940(a).)

2) Clarifies that 1), above, does not prohibit an employer from refusing to hire or discharging an employee with a physical disability, mental disability, or medical condition, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee with a physical mental disability, if the employee, because of a physical disability, mental disability, or medical condition, is unable to perform the employee's essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations. (Gov. Code § 12940(a)(1) and (2).)

3) Defines "mental disability" to include, but not be limited to, all of the following:

a) Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity, as specified;

b) Any other mental or psychological disorder or condition that requires special education or related services;

c) Having a record or history of a mental or psychological disorder or condition described in a) or b) which is known to the employer;

d) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult; and

e) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in a) or b). (Gov. Code 12926(j).)

4) Defines "physical disability" to include, but not be limited to, all of the following:

a) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that affects specified body systems and limits major life activity, as specified;

b) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult;

c) Any other health impairment not described in a) that requires special education or related services;

d) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in a) or b), which is known to the employer or other entity covered by this part;

e) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult; and

f) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic

disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in a) and b). (Gov. Code 12926(m).)

5) Excludes sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs from the definitions of "mental disability" and "physical disability." (Gov. Code 12926(j) and (m).)

6) Defines "essential functions" to mean the fundamental job duties of the employment position the individual with a disability holds or desires and clarifies that marginal functions of the position are not included. (Gov. Code § 12926(f).)

7) Specifies that a job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

   a) The reason the position exists is to perform that function;

   b) The limited number of employees available among whom the performance of that job function can be distributed; and

   c) The function may be highly specialized, so that the incumbent in the position is hired based on expertise or the ability to perform a particular function. (Gov. Code § 12926(f)(1).)

8) Provides that evidence of whether a particular function is essential includes, but is not limited to, specified items. (Gov. Code § 12926(f)(2).)

9) Makes it an unlawful employment practice for an employer to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee but does not require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship, as defined, to its operation. (Gov. Code § 12940(m)(2).)

10) Makes it an unlawful employment practices for an employer to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition. (Gov. Code § 12940(n).)

11) Defines "reasonable accommodation" to include either of the following:

a) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities; or

b) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. (Gov. Code § 12926(p).

12) Defines "undue hardship" to mean an action requiring significant difficulty or expense, when considered in light of the following factors:

a) The nature and cost of the accommodation needed;

b) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility;

c) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities;

d) The type of operations, including the composition, structure, and functions of the workforce of the entity; and

e) The geographic separateness or administrative or fiscal relationship of the facility or facilities. (Gov. Code § 12926(u).)

13) Makes it an unlawful employment practice for an employer to retaliate or otherwise discriminate against a person for requesting accommodation of a physical or mental disability, regardless of whether the request was granted. (Gov. Code § 12940(m)(2).)

This bill:

1) Provides that it shall be an unlawful employment practice for an employer to fail to provide to an employee who is working from home at least 30 calendar days' advance notice before requiring the employee to return to work in person. Specifies that the notice shall be written and sent by mail or email and shall include, at a minimum, specified text. Provides that an employee shall not be required to return to work in person until the employer provides notice in accordance with this bill.

2) Provides that the provisions of this bill shall not be construed to do any of the following: (a) diminish either an employer's obligations with respect to, or an employee's rights to, reasonable accommodation for a disability, including, but not limited to, situations in which a reasonable accommodation allowing the employee to work from home preexisted the provision of a notice pursuant to this bill; (b) require an employee who is working from home as a reasonable accommodation at the time the notice is provided to reenter an interactive process as a result of notice pursuant to this bill; or (c) authorize an employer to remove or otherwise change an existing reasonable accommodation, except at an employee's request or where otherwise authorized, as specified.

Comments

In response to public health orders, many employers instituted remote work policies during some or all of the height of the COVID-19 pandemic. At the same time, unemployment rates among people with disabilities fell. This trend may reverse as employers recall their employees to in-person work. To ensure that employees with disabilities who are called back to in-person work have the time and information they need to request continued remote work as a reasonable accommodation if they need it, this bill requires employers to provide employees with 30 days' advance notice when the employer intends to end a remote work policy and bring employees back in-person, including specific text about the right to request a reasonable accommodation. This bill does not alter the legal process for handling such a request and does not alter the legal standard by which such a request must be evaluated.

The author is concerned that, as many employers have or will soon migrate back to in-person work, opportunities for employees with disabilities to work remotely may begin to recede. As a result, the boom in employment for people with disabilities may start to fade if it has not done so already. Perhaps notably, after dropping precipitously over the course of the COVID-19 pandemic, the unemployment rate for people with disabilities has begun to tick upward again in the first two months of 2023.[1]

This bill requires employers to give employees who are working remotely pursuant to their employer's policy at least 30 days' advance notice before ending that policy and recalling the employees to in-person work. While this notice has the added benefit of giving all employees time to make whatever arrangements are necessary to adjust back to in-person work, the author's primary intent is to make

[1] *Labor Force Statistics from the Current Population Survey: Unemployment Rate - With a Disability, 16 Years and Over* https://data.bls.gov/timeseries/LNU04074597&years_option=all_years (as of Mar. 12, 2023).

sure that workers with disabilities have sufficient time to submit a request for continued remote work as a reasonable accommodation. For this same reason, the notice must include specific text alerting employees of their right to make an accommodation request.

This bill does not alter the process by which employers are supposed to respond to such a request nor does the bill change the legal standard under which such a request must be evaluated. Both workers with disabilities and their employers would have the same obligations and rights as they do under existing law, but this bill helps make certain that workers with disabilities are aware of these rights and that they have sufficient time to exercise those rights if they wish to do so. Thus, while this bill does not guarantee workers with disabilities that they will be allowed to continue working remotely, it should help to ensure that workers with disabilities do not lose employment when continued remote work was a viable option to enable them to remain on the job.

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

According to the Assembly Appropriations Committee:

1) Costs of approximately $205,000 in fiscal year (FY) 2024-25 and $203,000 annually thereafter to the Civil Rights Department (CRD) for two additional positions to receive, investigate, mediate, and prosecute complaints (General Fund). Based on historical data regarding the number of disability-related employment complaints, CRD estimates intake of approximately 280 new complaints annually and investigating approximately 110 of those complaints. CRD also estimates hundreds to thousands of inquiries to its Communications Center as employees try to understand their rights to work from home.

2) Costs of approximately $45,000 in FY 2023-24, $402,000 in FY 2024-25, and $389,000 in FY 2025-26 to the Department of Justice for additional staff hours and positions, as the Civil Law Division's Employment and Administrative Mandate Section anticipates an increase in workload representing state agencies in employment litigation (Legal Services Revolving Fund, with costs primarily reimbursable through direct billings to the client agency).

SUPPORT: (Verified 10/17/23)

Association of California State Employees with Disabilities
California Catholic Conference
California Employment Lawyers Association
California Faculty Association

Consumer Attorneys of California
Disability Rights California
National Association of Social Workers, California Chapter
The Arc and United Cerebral Palsy California Collaboration

OPPOSITION: (Verified 10/11/23)

None received

GOVERNOR'S VETO MESSAGE:

This bill would require employers, before requiring an employee who is working from home to return to in-person work, to provide 30 calendar days' advance written notice. The bill would also require the notice to include specified text informing employees of their right to request continuing to work remotely as a reasonable accommodation for a disability.

My administration supports reasonable advance notice by employers, where feasible, to employees of return to work requirements, in order to allow for employees to prepare for the change. My administration also strongly supports the existing legal requirement that employers must reasonably accommodate employees with disabilities, which includes the possibility that working from home could be a reasonable accommodation in appropriate circumstances, and encourages that information to be included in employer communications with employees about return to work.

However, SB 731 would impose an inflexible 30-day advance notice requirement to return-to-work that would not take into account the needs of any particular employer. Businesses, especially small businesses, may have limited employees to staff in-person positions and the 30-day advance notice requirement of return-to-work could be impractical, especially in times of critical need or emergencies.

ASSEMBLY FLOOR: 74-0, 9/6/23
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, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Garcia, Gipson, Haney, Hart, Holden, 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, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NO VOTE RECORDED: Dixon, Essayli, Gallagher, Grayson, Hoover, Ta

Prepared by: Margie Estrada / JUD. / (916) 651-4113
10/19/23 10:46:56

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

SENATE RULES COMMITTEE SB 751
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

VETO

Bill No: SB 751
Author: Padilla (D)
Amended: 9/1/23
Vote: 27

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

SENATE FLOOR: 28-10, 9/14/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Newman, Padilla, Portantino, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Glazer, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Dodd, Roth

ASSEMBLY FLOOR: 48-17, 9/13/23 - See last page for vote

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.

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 this 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 10/17/23)

California Teamsters Public Affairs Council
City of Camarillo
City of Chula Vista
Imperial Valley Equity and Justice Coalition

OPPOSITION: (Verified 10/17/23)

Athens Services
California Waste & Recycling Association
California Waste Haulers Council
Resource Recovery Coalition of California
Waste Connections, Inc.
Waste Management & Affiliated Entities

GOVERNOR'S VETO MESSAGE:

> This bill prohibits franchise agreements for solid waste handling services 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.
>
> While I appreciate the author's intent to prevent disruptions in local waste hauling services, I do not believe a change to state law is necessary. Local jurisdictions voluntarily enter into franchise agreements and currently have the ability to negotiate amendments to such contracts without legislation.

ASSEMBLY FLOOR: 48-17, 9/13/23
AYES: Addis, Aguiar-Curry, Alvarez, Arambula, Bains, Bennett, Berman, Bonta, Bryan, Calderon, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Gabriel, Garcia, Gipson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Ortega, Pellerin, Petrie-Norris, Ramos, Rendon, Reyes, Luz Rivas, Santiago, Schiavo, Ting, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis

NO VOTE RECORDED: Bauer-Kahan, Boerner, Juan Carrillo, Chen, Friedman, Grayson, Stephanie Nguyen, Pacheco, Papan, Quirk-Silva, Rodriguez, Blanca Rubio, Soria, Valencia, Villapudua

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
10/19/23 11:13:01

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

SENATE RULES COMMITTEE SB 773
Office of Senate Floor Analyses
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VETO

Bill No: SB 773
Author: Glazer (D)
Amended: 9/1/23
Vote: 27

SENATE HUMAN SERVICES COMMITTEE: 4-0, 4/17/23
AYES: Alvarado-Gil, Ochoa Bogh, Menjivar, Wahab
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

SENATE FLOOR: 39-0, 9/11/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, 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: Caballero

ASSEMBLY FLOOR: 79-0, 9/6/23 - See last page for vote

SUBJECT: CalWORKs: homeless assistance

SOURCE: Author

DIGEST: This bill requires counties, for purposes of determining eligibility for specified California Work Opportunity and Responsibility to Kids (CalWORKs) payments issued to prevent eviction, to include amounts from other subsidy programs as well as private support, when calculating a family's total monthly household income. This bill also requires the California Department of Social Services (CDSS) to collect specific, statewide data regarding homeless assistance and to establish a statewide stakeholder advisory group to develop specified recommendations to better support CalWORKs recipients in need of permanent housing.

ANALYSIS:

Existing law:

1) Establishes the federal Temporary Assistance for Needy Families (TANF) program, which permits states to implement the program under a state plan. *(42 USC 601 et seq.)*

2) Establishes the CalWORKs program to provide cash assistance and other social services for low-income families through the federal TANF program. Under CalWORKs, each county provides assistance through a combination of state, county, and federal TANF funds. (*WIC 11200 et seq.*)

3) Makes available an allowance for nonrecurring special needs for a homeless family seeking shelter when the family is eligible for CalWORKs aid. *(WIC 11450(f)(3)(A))*

4) Limits eligibility for housing assistance (HA) to 16 calendar days of temporary HA and one payment of permanent HA every 12 months, with certain exceptions, and requires that a person who applies for these benefits be informed of this time limit. Allows for exceptions to these limits in the case of domestic violence, illness, natural catastrophe, and state or federally declared disaster. *(WIC 11450(f)(4)(E)(i))*

5) Allows a county to require that a recipient of HA who qualifies for benefits for a second time in a 24-month period participate in a homelessness avoidance case plan as a condition of eligibility for HA benefits only if a county provides a housing navigation caseworker to assist with securing permanent housing and housing case management services. *(WIC 11450(f)(4)(E)(iii))*

6) Allows a nonrecurring special needs benefit for permanent HA for last month’s rent and security deposits if these payment are conditions of securing a

residence, or to pay for up to two months of rent arrearages, if these payments are a reasonable condition of preventing eviction. *(WIC 11450(f)(4)(B)(i))*

7) Requires the last month's rent or monthly arrearage portion of the payment without the value of CalFresh or special needs benefits for a family of that size meet both of the following requirements: (a) not exceed 80 percent of the family's total monthly household income, and (b) be made to families that have found permanent housing costing no more than 80 percent of the family's total monthly household income. *(WIC 11450(f)(4)(B)(ii)(I-II))*

This bill:

1) Requires a county human services agency, beginning January 1, 2025, or on the date that the California Statewide Automated Welfare System (CalSAWS) can perform the necessary automation, whichever is later, for purposes of eligibility to secure a payment within the CalWORKs temporary or permanent HA program, to include in the calculation of the family's total monthly household income, any amount that is regularly received from other government and nonprofit housing and homeless subsidy programs, and any regularly received private support intended or designed to help the family with housing, such as financial support from an individual outside the household

2) Prohibits the additional sources of income towards a family's total monthly household income, as described in 1), from being included in the calculation of the family's income for purposes of calculating the amount of CalWORKs aid paid.

3) Requires the county, beginning January 1, 2025, or on the date that CDSS notifies the Legislature that CalSAWS can perform the necessary automation to implement these provisions, whichever date is later, upon application for temporary or permanent HA, to refer an assistance unit to any other homeless assistance services, including the CalWORKs Housing Support Program, family stabilization, or diversion program, and allows the county to give priority to the assistance unit for those services.

4) Requires the county to also refer the assistance unit to other applicable housing programs, including, but not limited to, the Bringing Families Home Program, the Home Safe Program, and the Housing and Disability Advocacy Program.

5) Requires CDSS, on or before January 1, 2025, to do all of the following:

   a) Establish a statewide stakeholder advisory group, or modify the responsibilities of an existing advisory group that includes demographic

diversity that reflects the diverse population of families experiencing homelessness to develop the recommendations described in c) below;

b) Requires the statewide stakeholder advisory group to include, but not be limited to, representatives of the Legislature, state agencies, county agencies, municipal agencies, community-based organizations, advocates for CalWORKs recipients and homeless individuals, individuals or families who are experiencing homelessness or who have experienced homelessness in the past, and individuals or families who receive CalWORKs benefits; and,

c) Coordinate and support the statewide stakeholder advisory group in developing recommendations on both of the following:

   i) How to adequately collect data on the usage of the homeless assistance to show who is able to access it and how to promote higher utilization; and,

   ii) How to better support CalWORKs recipients in identifying and maintaining permanent housing.

6) Requires CDSS, beginning January 1, 2025, or on the date that CDSS notifies the Legislature that CalSAWS can perform the necessary automation to implement these provisions, whichever date is later, to collect statewide data to determine the amount of applications for homeless assistance provided under these provisions, the income level of the applicants, whether the applicants are approved or denied for homeless assistance, and, if the applicant is denied, the reason for the denial.

Background

CalWORKs. CalWORKs, the state's largest anti-poverty program, provides temporary cash assistance aimed at moving children out of poverty and helping qualified low-income families meet their basic needs, such as rent, clothing, utility bills, food, and other items needed to ensure children are cared for at home and safely remain with their families. In addition to cash assistance, adult CalWORKs recipients are provided education and employment and training services designed to help remove barriers to work and promote self-sufficiency. These services are typically outlined in a Welfare-to-Work plan. CDSS is the designated state agency responsible for program supervision at the state level, and counties are responsible for administering the program at the local level.

CalWORKs Homeless Assistance Program (HA). HA was established to help families in the CalWORKs Program secure or maintain permanent housing or to provide emergency shelter when a family is experiencing or at risk of

homelessness. HA is an entitlement benefit available in all 58 counties, and includes temporary, permanent, and expanded assistance. Temporary assistance provides a daily payment of $85 per day for a family of four (and $15 for each additional family member) to secure housing for up to 16 calendar days within a 12-month period. Permanent HA assistance can be provided via security deposit costs or up to two months of rent arrearages. In 2020-21, the program approved temporary assistance for 30,863 families and permanent assistance for 1,683 families. According to CDSS, the HA caseload averages from 2016-17 through 2020-21 showed an average of approximately 48,352 approvals for temporary HA, and 4,898 approvals for permanent HA per year.

A family is eligible for HA if they have received any notice that could lead to an eviction, regardless of the circumstances cited in the notice. Eligible families may receive HA benefits once every 12 months, with certain exceptions due to domestic abuse, illness, inhabitability of the home, or declared disaster. When a family receives HA based on a state or federally declared disaster, it does not count against their once-every-12-months limit, but is limited to once per disaster. In addition, a HA applicant who is a survivor of domestic abuse is eligible for expanded assistance of 32 days of temporary HA, rather than the general limit of 16 days of temporary HA. Expanded HA for survivors is not limited to once every 12 months.

Currently state law and CDSS regulations do not specify that the county must refer an assistance unit that applies for temporary HA to other homeless assistance program or provide these households priority to those services. This bill requires county human services agencies when an assistance unit applies temporary or permanent CalWORKs HA to refer the family to other homeless assistance, including the CalWORKs Housing Support Program, family stabilization, or diversion program, and to other applicable housing programs, including, but not limited to, the Bringing Families Home Program, the Home Safe Program, and the Housing and Disability Advocacy Program. This bill also allows the county to give priority to the assistance unit for those services.

A CalWORKs assistance unit that applies for permanent HA is only eligible for the benefit if they find permanent housing that costs no more than 80 percent of the assistance unit’s total monthly household income without counting the value of CalFresh benefits or special needs benefit for a family of that size. Special needs benefits may include, but not be limited to a pregnancy benefit, or temporary shelter costs benefit. Currently, other government and non-profit housing and homeless subsidy program benefits that a family receives are either not counted

towards their income or if they are counted, may cause the family to be ineligible for permanent HA.

Families are most often denied permanent HA due to their rents being more than 80 percent of the family's total monthly household income. According to data from CDSS, in FY 2020-21, 11 percent of the families who applied for permanent HA were denied. That number increased to 20 percent in FY 2021-22 and thus far from July 2022 through February 2023 approximately 18 percent of the families requesting permanent HA have been denied. This bill instead, for permanent HA eligibility and assistance, allows county human services agencies to include in the calculation of a family's total monthly household income any amount that is regularly received from other government and nonprofit housing and homeless subsidy programs and any regularly received private support intended or designed to help the family with housing. According to this bill's supporters, examples include assistance from a philanthropic entity, such as a church.

County human services agencies provide a monthly statistical report to CDSS that includes: the number of HA requests carried forward from the last month; number of HA requests made, pending, approved, and denied; number of temporary shelter days authorized; number of requests granted temporary shelter based on apparent eligibility but subsequently found ineligible during the month; and net monthly expenditures for temporary and permanent HA. According to CDSS, the report provides county, state, and federal entities with information needed for budgeting, staffing, program planning, and other purposes. This bill requires CDSS to collect statewide data to determine the amount of applicants for CalWORKs temporary and permanent homeless assistance, the income level of the applicants, whether the applicants are approved or denied for homeless assistance, and, if the applicant is denied, the reason for the denial. As CDSS already collects some of this information already, the bill would require additional data points to be collected.

This bill also requires CDSS, by January 1, 2025, to convene a stakeholder advisory group to develop recommendations on how to adequately collect data on the usage of the HA program, promote higher utilization of HA, and better support CalWORKs recipients in identifying and maintaining permanent housing. This bill also requires counties to allow income that is currently not counted towards a family's household income to be included in the eligibility calculation in an effort to provide this assistance to more applicants.

Related/Prior Legislation

SB 1083 (Skinner, Chapter 715, Statutes of 2022), among other things, allowed a family to be eligible for CalWORKs HA if they have received any notice that

could lead to an eviction, regardless of the circumstances cited in the notice, and provided that a county can only require a family to participate in a "homelessness avoidance case plan" as a condition of receiving HA twice in a 24-month period if that county has also provided a caseworker who can assist with securing permanent housing.

AB 2230 (Gipson, 2022) would have required families receiving temporary shelter assistance through the CalWORKs HA program to receive 16 days of temporary shelter assistance in the form of a one-time payment, instead of receiving 16 days of temporary shelter assistance in the form of an initial payment of three days that can be extended in one-week increments. The bill was vetoed by the Governor.

SB 1065 (Hertzberg, Chapter 152, Statutes of 2020) made various changes to CalWORKs HA, including removing liquid resource limits, simplifying verification of homelessness, and expanding eligibility as a result of a state or federally declared disaster, among other changes.

SB 960 (Maienschein, Chapter 444, Statutes of 2019) expanded the type of housing for which a CalWORKs HA payment can be made to include a person with whom, or an establishment with which, the family requesting assistance has executed a valid lease, sublease, or shared housing agreement.

AB 1811 (Committee on Budget, Chapter 35, Statutes of 2018) increased, as of January 1, 2019, the daily rate for CalWORKs temporary homeless assistance from $65 a day to $85 a day for a family with up to four members, and increased the daily maximum from $125 to $145.

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

According to the Assembly Appropriation Committee:

1) CDSS estimates, beginning January 1, 2025, ongoing General Fund (GF) costs of up to $2 million annually due to an increase in the permanent HA caseload and county administrative workload. CDSS indicates 18 percent (an average of 37 applicants per month) of permanent HA denials are due to the applicant's monthly rent or monthly arrearage exceeding 80 percent of their total monthly income. Actual costs will depend on the portion of these denials that become eligible as a result of this bill. California's annual $3.7 billion TANF block grant, which can be used flexibly within the CalWORKs program, is fully allocated within the state budget. Therefore, new CalWORKs program costs are considered GF costs. GF costs may be mitigated to the extent TANF funding is not fully expended in any particular year.

2) CDSS estimates one-time General Fund (GF) costs of $728,000 in the first year and $708,000 in the second year to collect statewide data relating to the provision of homeless assistance benefits and to establish a statewide stakeholder advisory group to develop recommendations relating to these benefits.

3) CDSS estimates one-time automation costs of approximately $1 million (GF) for necessary updates to collect the specified data required by this bill.

4) Costs to counties are potentially reimbursable by the state, subject to a determination by the Commission on State Mandates. These potential costs are included in the estimate in 1) above.

SUPPORT: (Verified 10/9/23)

California Catholic Conference
California Family Resource Association
Child Abuse Prevention Center
Coalition of California Welfare Rights Organizations
Law Foundation of Silicon Valley
National Association of Social Workers, California Chapter
Personal Assistance Services Council

OPPOSITION: (Verified 10/9/23)

None received

GOVERNOR'S VETO MESSAGE:

This bill would require counties to consider an expanded definition of income for purposes of calculating total monthly household income for CalWORKS Permanent Homeless Assistance (HA) Program eligibility. The California Department of Social Services (CDSS) would be required to collect statewide data regarding HA and convene a statewide stakeholder advisory group.

I appreciate the author's intent to get more people at risk of homelessness into permanent housing. My Administration has made significant investments to combat homelessness and provide housing supports. However, this bill would result in an ongoing annual fiscal impact to the state of more than a million dollars a year. These costs must be considered alongside other budgetary priorities as part of the annual budget process.

In partnership with the Legislature, we enacted a budget that closed a shortfall of more than $30 billion through balanced solutions that avoided deep program cuts and protected education, health care, climate, public safety, and social service programs that are relied on by millions of Californians. This year, however, the Legislature sent me bills outside of this budget process that, if all enacted, would add nearly $19 billion unaccounted costs in the budget, of which $ 11 billion would be ongoing.

With our state facing continuing economic risk and revenue uncertainty, it is important to remain disciplined when considering bills with significant fiscal implications, such as this measure.

ASSEMBLY FLOOR: 79-0, 9/6/23
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, 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: Grayson

Prepared by: Bridgett Hankerson / HUMAN S. / (916) 651-1524
10/19/23 10:46:55

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

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VETO

Bill No: SB 777
Author: Allen (D)
Amended: 9/7/23
Vote: 27

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 5-0, 3/29/23
AYES: Allen, Dahle, Gonzalez, Menjivar, Skinner
NO VOTE RECORDED: Hurtado, Nguyen

SENATE APPROPRIATIONS COMMITTEE: 4-1, 5/18/23
AYES: Portantino, Ashby, Wahab, Wiener
NOES: Jones
NO VOTE RECORDED: Bradford, Seyarto

SENATE FLOOR: 36-2, 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, Nguyen, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NOES: Jones, Niello
NO VOTE RECORDED: Ochoa Bogh, Seyarto

SENATE FLOOR: 36-2, 9/14/23
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, Nguyen, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk
NOES: Jones, Niello
NO VOTE RECORDED: Ochoa Bogh, Seyarto

ASSEMBLY FLOOR: 60-16, 9/14/23 - See last page for vote

SUBJECT: Solid waste: reusable grocery bags and recycled paper bags

SOURCE: Author

DIGEST: This bill authorizes large stores to use monies from the $0.10 per bag charge required by the State's "bag ban" to provide customers with opportunities to return reusable grocery bags for recycling, and requires stores to report data on bag sales and funds to CalRecycle, and make those reports available to an authorized representative of a store with a collective bargaining agreement.

ANALYSIS:

Existing law:

1) Requires, under the Integrated Waste Management Act (IWMA), local governments to divert at least 50% of solid waste from landfill disposal and establishes a statewide goal that 75% of solid waste be diverted from landfill disposal by 2020. (Public Resources Code (PRC) §§41780, 41780.01)

2) Establishes a Statewide "bag ban" that prohibits a store from providing a single-use carryout bag to a customer at the point of sale unless it is a compostable bag under certain conditions, including that the compostable bag be sold at not less than $0.10. (PRC §42283-42284)

3) Authorizes a store to provide a recycled paper bag for less than $0.10. (PRC §42283)

4) Requires stores, as defined, to expend money from the $0.10 charge added to compostable or recycled paper bags at checkout only for:

    a) Costs associated with complying with the requirements of this article
    b) Actual costs of providing recycled paper bags or reusable grocery bags.
    c) Costs associated with a store's educational materials or educational campaign encouraging the use of reusable grocery bags. (PRC § 42283.7)

5) Authorizes a city, county, city and county, or state to impose civil liability on a person or entity that violates these provisions. Violation amounts increase for multiple violations (PRC §42285)

This bill:

1) Requires a store to use the money collected from the minimum 10 cents per bag at checkout for costs associated with providing consumers with an opportunity for returning reusable grocery bags to the store for recycling, and any other costs associated with ensuring that collected bags are recycled.

2) Requires stores to submit annual reports to CalRecycle on the costs associated with complying with the statewide "bag ban," including costs of providing customers with opportunities for returning reusable grocery bags to stores for recycling, the number of bags given away without charge, and reporting any balance of funds in a given year.

3) Allows an authorized representative of a store with a collective bargaining agreement to review and make copies of those quarterly reports.

4) Defines “stores” to mean stores that employ at least 300 people nationwide and have gross annual sales of at least $2 million.

Background

1) *Plastic Pollution from bags.* Plastic pollution is a persistent problem impacting the environment on a local and global scale. In 2021, global plastics production was estimated at 390.7 million metric tons: only nine percent of all plastic ever made has been recycled, according to a United Nations Environment Programme report. Plastic pollution threatens ecosystems. As litter, plastic threatens wildlife as terrestrial and marine animals alike can become entangled in or ingest plastic debris, causing suffocation or starvation. Moreover, plastic never truly degrades into its chemical components; instead, it physically breaks down into smaller and smaller pieces that become more penetrative and more challenging to clean from the environment. Plastics under five millimeters, or microplastics, have been found in the most pristine environments on earth, including in national parks, in Antarctic sea ice, and in human placentas: microplastics are shown to increase risks of cancer and disrupt hormone pathways in lab rats.

   Plastic bags have historically been a major source of plastic pollution. According to the United Nations Environmental Programme (UNEP), up to five trillion plastic bags are used worldwide every year. A U.S. EPA report ‘Advancing Sustainable Materials Management: Facts and Figures 2018,’ found that the United States generated over four million tons of plastic bags,

sacks, and wraps in 2018. Of that amount, more than three million tons were landfilled, and only 10% was recycled.

Specific to California, in 2011, CalRecycle found that approximately 24 billion plastic bags were landfilled in California each year, and according to a U.S. Environmental Protection Agency's 2005 Characterization of Municipal Solid Waste report, only five percent of all single-use plastic bags were actually recycled. This staggering amount of plastic bag waste prompted many counties and cities in California to adopt single-use carry-out plastic bag bans, where stores were prohibited from providing single-use carry-out plastic bags at checkout. These local bag bans were eventually followed by a Statewide bag ban (SB 270, Padilla, Chapter 850, Statutes of 2014).

2) *California's plastic bag ban.* The statewide Single-Use Carryout Bag Ban (SB 270, Padilla, Chapter 850, Statutes of 2014) was signed into law in 2014. However, the law was almost immediately suspended by a referendum, and the bill did not go into effect until voters approved it as Proposition 67 in November 2016.

   Under the bag ban, stores are no longer allowed to provide single-use plastic carryout bags to customers at checkout. Instead, stores can sell reusable grocery bags, recycled paper bags, or compostable bags to customers at checkout. Stores must apply a minimum 10-cent charge for these bags, which must be certified as reusable/compostable or recycled paper. This 10-cent charge per bag is intended not only to cover the costs of the store's switch from single-use plastic to more expensive reusable, compostable, or recycled bags but also to drive a change in consumer behavior, incentivizing customers to bring their own reusable bag to avoid the 10-cent per-bag charge.

   Stores do not have a reporting requirement under the bag ban but are held accountable for purchasing compostable or recycled bags. Bag producers pay an administrative certification fee and submit proof to CalRecycle certifying that their bags meet the recycled or compostable criteria for the state. This data is sent once every two years to CalRecycle via the Reusable Grocery Bag Reporting System (RGBRS). Once CalRecycle receives this proof of certification in the RGBRs data system, the department posts the name of producers to a 'Certified Reusable Grocery Bags and Producers' list. Stores are only allowed to purchase carryout bags that are certified in this process.

3) *Impact of the plastic bag ban on plastic bag pollution.* Immediately following the passage of the bag ban, CalRecycle conducted a one-time limited survey on the impact of the bag ban on shifting consumer behavior and reducing plastics. Six months after SB 270 went into effect there was an 85% reduction in the number of plastic bags and a 61% reduction in the number of paper bags provided to customers, according to self-reported data from 1,500 stores across the State. However, given that this data was self-reported, only collected over six months, and did not parse out the impact of statewide and local plastic bag bans, the findings cannot be considered definitive.

   However, further studies have found that the Bag Ban has led to a reduction in bag litter. In 2007, up to 10% of littered items collected across California were plastic or paper bags, but a decade later, in 2017, after SB 270 was enacted (alongside 151 local ordinances that banned single-use plastic bags at checkout), under four percent of items collected during the Coastal Cleanup Day were plastic or paper bags, representing a significant drop in plastic pollution from this point-in-time count.

4) *The Role of Stores in Recycling Plastic Bags.* Prior to SB 270, State law had established an At-Store Recycling Program which required stores that provided single-use plastic carryout bags to also provide collection bins for those bags. The bags collected in these bins were required to be recycled in a manner consistent with local jurisdictions' recycling plans. Under the At-Store Recycling Program, stores reported their single-use plastic bag collection and recycling efforts to CalRecycle.

   When SB 270 was implemented, it was unclear whether reusable or compostable bags needed to be included in the At-Store Recycling Program. Since SB 270 had banned single-use plastic bags at check-out, many stores inferred that they did not need to offer collection bins for reusable plastic bags. However, SB 270 also specifically requires that reusable plastic bags be accepted for return at stores subject to the At-Store Recycling Program which implies that the Legislature intended for stores to continue to offer collection bins under the At-Store Recycling Program for the collection of reusable plastic bags. This confusion persisted until the At-Store Recycling Program sunset on January 1, 2020.

Comments

1) *Purpose of Bill.* According to the author, "SB 777 will provide much-needed transparency and accountability on plastic bag surcharge allocations, as

required in SB 270, by requiring retail establishments to submit a quarterly report to CalRecycle specifying the following:

- Actual costs for implementing the provisions of SB 270;
- Actual costs for providing the reusable bags;
- Costs associated with a store's educational materials or educational campaigns encouraging the use of reusable grocery bags; and,
- Costs associated with recycling."

2) *Tracking Bag Ban Data: Risks and Rewards.* CalRecycle, in its 2019 report to the Legislature, "Implementation Update and Policy Considerations for Management of Reusable Grocery Bags in California," recommends establishing enforceable annual reporting requirements for stores to include the following information:

   a) Number of recycled paper bags and reusable grocery bags sold;
   b) Number of transactions where customers have and have not purchased bags at the point of sale;
   c) Number of free recycled paper bags and reusable grocery bags provided to Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) or Electronic Benefits Transfer (EBT) -paying customers;
   d) The total amount of monies collected for providing recycled paper bags and reusable grocery bags and how the money was used; and a
   e) Summary of efforts undertaken to promote the use of reusable grocery bags by customers.

   The report states that tracking this information is important to determine whether consumer fees are being appropriately expended and to analyze the impact of the program. SB 777 builds off these recommendations.

3) *More than 10-cents a bag?* A cautionary word on tracking the money stores get from the 10-cent charge check out: if it is found that stores are making a profit from charging 10 cents a bag under the 'bag ban,' then one conclusion would be that stores should expend more money on their take-back, recycling, and education efforts for reusable bags. Another interpretation, however, might be to reduce the cost of these bags so that they just cover the cost of acquiring those bags. However, this would lose sight of the fact that the primary goal of the 10-cent charge at checkout is to de-incentivize consumers from opting to take bags at checkout, instead of bringing in their own bags. The bill in print is agnostic about the end-use of the data that the program will collect, but the Legislature should consider how such data could be used.

Related/Prior Legislation

SB 1046 (Eggman Chapter 991, Statutes of 2022) prohibited, after Jan 1, 2025, certain stores from providing a pre-checkout bag to a customer unless the bag is compostable or a recycled paper bag.

SB 270 (Padilla, Chapter 850, Statutes of 2014) established a statewide "bag ban" to prohibit the use of single-use carryout bags at stores, and to instead require stores to offer reusable or compostable plastic or paper bags for 10 cents or more.

AB 2449 (Levine, Chapter 845, Statutes of 2006.), beginning July 1, 2007, required store operators to establish a recycling program that provides an opportunity for a store customer to return a plastic carryout bag back to the store.

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

According to the Assembly Appropriations Committee, CalRecycle estimates ongoing annual costs of approximately $165,000 (Reusable Grocery Bag Fund or Integrated Waste Management Account) to audit stores. While the bill authorizes, and does not require, CalRecycle to conduct these audits, CalRecycle notes that under the bill, it would receive reports from and could be requested to audit approximately 9,500 grocery stores and 12,000 convenience stores. CalRecycle notes the costs of establishing a system to collect stores' quarterly reports are absorbable within existing resources.

SUPPORT: (Verified 10/13/23)

Californians Against Waste
United Food and Commercial Workers, Western States Council

OPPOSITION: (Verified 10/13/23)

California Grocers Association
California Retailers Association
Last Beach Cleanup
Plastic Pollution Coalition

ARGUMENTS IN SUPPORT: According to the National Stewardship Action Council: Existing law… states the reusable bags distributed must be capable of being recycled in the state. However, due to a lack of convenient collection opportunities, consumers often place these plastic bags in their curbside recycling. Plastic bags contaminate the curbside recycling system as they can get caught in

the processing equipment, which often results in damage to machinery, lost productivity, and increased costs. Stores that distribute reusable bags should be required to use the funds collected to ensure returned bags are properly recycled.

ARGUMENTS IN OPPOSITION: According to the California Grocers Association, "while we know concerns exist about the recyclability of the certified reusable bags we make available to our customers, this bill will do nothing to address those concerns."

GOVERNOR'S VETO MESSAGE:

> This bill authorizes grocery stores and retail chains subject to the statewide singleuse plastic bag ban to provide customers with opportunities to return reusable grocery bags for recycling. It also requires large stores to submit annual reports to the California Department of Resources Recycling and Recovery (CalRecycle) to track the revenue stores receive from the 10-cent bag fee, and make those reports available to an authorized representative with a collective bargaining agreement. I thank the author for the commitment to ensure continued success of California's single-use plastic bag ban, and I support providing consumers with more convenient options to recycle carryout bags. However, I am concerned that the data collection and reporting provisions in this bill will impose an undue burden on stores, large and small across the state, without a clear public benefit or improvement to implementation of the bag ban.

ASSEMBLY FLOOR: 60-16, 9/14/23
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, 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, Santiago, Schiavo, Soria, Ting, Valencia, Waldron, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Alanis, Chen, Megan Dahle, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Wallis
NO VOTE RECORDED: Davies, Jackson, Blanca Rubio, Villapudua

Prepared by: Brynn Cook / E.Q. / (916) 651-4108
10/25/23 14:00:04

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

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

VETO

Bill No: SB 799
Author: Portantino (D), Durazo (D) and Holden (D), et al.
Amended: 8/22/23
Vote: 27

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

SENATE FLOOR: 27-12, 9/14/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Durazo, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Min, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener
NOES: Alvarado-Gil, Dahle, Dodd, Eggman, Glazer, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Newman

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.

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,

[1] U.S. Department of Labor, State UI Program Data, US totals https://oui.doleta.gov/unemploy/claimssum/5159report.asp

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 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

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[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

[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

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 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.

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[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.

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 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
State Superintendent of Public Instruction Tony Thurmond
Insurance Commissioner Ricardo Lara/California Department of Insurance
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
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
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
California State Association of Counties
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
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
University of California
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."

GOVERNOR'S VETO MESSAGE:

> This bill allows individuals who left work due to a trade dispute to become eligible for Unemployment Insurance (UI) benefits. The bill also codifies case law that employees who left work due to a lockout by their employer, even if it was in anticipation of a trade dispute, are eligible for UI benefits.
>
> California employers fund UI benefits through contributions to the state's UI Trust Fund on behalf of each employee. The UI financing structure has not been updated since 1984, which has made the UI Trust Fund vulnerable to insolvency. Any expansion of eligibility for UI benefits could increase California's outstanding federal UI debt projected to be nearly $20 billion by the end of the year and could jeopardize California's Benefit Cost Ratio add-on waiver application, significantly increasing taxes on employers.

Furthermore, the state is responsible for the interest payments on the federal UI loan and to date has paid $362.7 million in interest with another $302 million due this month. Now is not the time to increase costs or incur this sizable debt.

I have deep appreciation and respect for workers who fight for their rights and come together in collective action. I look forward to building on the progress we have made over the past five years to improve conditions for all workers in California.

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
10/19/23 10:46:02

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

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THIRD READING

Bill No: SB 804
Author: Dahle (R)
Amended: 1/3/24
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 2-2, 4/18/23 (FAIL)
AYES: Ochoa Bogh, Wiener
NOES: Wahab, Skinner
NO VOTE RECORDED: Bradford

SENATE PUBLIC SAFETY COMMITTEE: 3-0, 1/9/24
AYES: Bradford, Seyarto, Wiener
NO VOTE RECORDED: Wahab, Skinner

SUBJECT: Criminal procedure: hearsay testimony at preliminary hearings

SOURCE: California Police Chiefs Association
Redding Police Department

DIGEST: This bill authorizes law enforcement civilians to provide hearsay testimony at preliminary hearings.

ANALYSIS:

Existing law:

1) States that at the time the defendant appears for arraignment on a felony to which the defendant has not pleaded guilty, the magistrate, immediately upon the appearance of counsel shall set a time for the preliminary hearing and shall not allow less than two days for the district attorney and the defendant to prepare for the examination. (Pen. Code, § 859b.)

2) States that if it appears from the examination that there is sufficient cause to believe that the defendant is guilty, the magistrate shall hold the defendant to answer on the charges. (Pen. Code, § 872, subd. (a).)

3) Defines "hearsay evidence" as evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated. (Pen. Code, § 1200, subd. (a).)

4) Prohibits hearsay evidence from being admitted unless otherwise provided by law. (Pen. Code, § 1200, subd. (b).)

5) Provides, notwithstanding the law that prohibits hearsay evidence, the finding of probable cause may be based in whole or in part upon the testimony of a law enforcement officer or honorably retired law enforcement officer relating the statements of declarants made out of court offered for the truth of the matter asserted. (Pen. Code, § 872, subd. (b).)

6) States that an honorably retired law enforcement officer may only relate statements of declarants made out of court and offered for the truth of the matter asserted that were made when the honorably retired officer was an active law enforcement officer. (Pen. Code, § 872, subd. (b).)

7) States that any law enforcement officer or honorably retired law enforcement officer testifying as to hearsay statements shall either have five years of law enforcement experience or have completed a training course certified by the Commission on Peace Officer Standards and Training that includes training in the investigation and reporting of cases and testifying at preliminary hearings. (Pen. Code, § 872, subd. (b).)

8) States that a law enforcement officer who may provide hearsay testimony at the preliminary hearing is any officer or agent employed by a federal, state, or local government agency to whom all of the following apply:

   a) Has either five years of law enforcement experience or who has completed a training course certified by the Commission on Peace Officer Standards and Training that includes training in the investigation and reporting of cases and testifying at preliminary hearings; or,

   b) Whose primary responsibility is the enforcement of any law, the detection and apprehension of persons who have violated any law, or the investigation and preparation for prosecution of cases involving violation of laws. (Pen. Code, § 872, subd. (c).)

This bill:

1) States that notwithstanding the law that prohibits hearsay evidence, the finding of probable cause may be based in whole or in part upon the sworn testimony of

a law enforcement civilian relating the statements of declarants made out of court offered for the truth of the matter asserted.

2) Defines "law enforcement civilian" to mean "uniformed, nonsworn, full-time paid employee of a law enforcement agency, such as a community service officer, police technician, or police services officer, whose primary functions may include, without limitation, writing police reports, investigating reports of property crime, interviewing victims and witnesses, collecting evidence, and processing crime scenes."

3) Requires any law enforcement civilian testifying as to hearsay statements to have either five years of experience as a law enforcement civilian or have completed a training course equivalent to the training course described for law enforcement officers in this section.

4) States, declarative of existing law, that any perjured testimony given by a peace office for law enforcement civilian to establish probable cause at a preliminary hearing is subject to disclosure as impeachment evidence to the extent required under *Brady v. Maryland* (1963) 373 U.S. 83.

Comments

According to the author of this bill:

> Law enforcement and the legal system must be given the tools needed properly serve our communities. As police departments receive less funding even with rising crime, efficiency is more important than ever. When sworn officers are forced to go re-interview victims, already limited resources are further spread out. Community service officers (CSOs) act as a bridge between victims and law enforcement. Allowing CSO's to perform hearsay testimony will streamline the process and will enable law enforcement to properly utilize its limited resources. Additionally, victims will not be forced to relive past trauma by being interviewed a second time. Once the CSO performs the initial interview, the victim will be free to rebuild and will not have to testify in court.

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

SUPPORT: (Verified 1/9/24)

California Police Chiefs Association (co-source)
Redding Police Department (co-source)

OPPOSITION: (Verified 1/9/24)

ACLU California Action
California Attorneys for Criminal Justice
California Public Defenders Association
Californians United for a Responsible Budget
Initiate Justice
San Francisco Public Defender

ARGUMENTS IN SUPPORT: According to the California Police Chiefs Association:

> Under current law, only sworn officers can deliver hearsay testimony (i.e. introducing statements made by witnesses and victims) during preliminary hearings. However, as more and more agencies are utilizing CSOs, who are non-sworn, take statements and reports for lower-level crimes, this has created complications in court rooms as those CSOs are not given that same authority as sworn officers. As such, victims and witnesses must either testify directly at preliminary hearings, or sworn officers are having to re-investigate the entire case, including re-interviewing victims and witnesses
>
> If a sworn peace officer is tasked with re-investigating and re-interviewing witnesses so they can testify in place of the victim, this takes significant time to complete, and keeps the officer off the street and away from their primary duty of responding to emergency calls. It also requires the victim to relive the crime again through additional interviews. SB 804 solves both these issues by allowing a properly trained or experienced non-sworn public safety officer to testify in the same way an officer may.

ARGUMENTS IN OPPOSITION: According to the California Public Defenders Association:

> Under existing law, a police officer can testify at a preliminary hearing to one level of hearsay, including hearsay from a police civilian. Hearsay is generally prohibited because it is unreliable – with the exception for hearsay from trained, experienced law enforcement officers offered at a preliminary hearing. This exception was enacted in 1990 by the voters as part of Proposition 115. Since 1990 both prosecutors and criminal defense lawyers have become accustomed to some level of hearsay in preliminary hearings. While it may be more

convenient for some prosecutors and witnesses, many prosecutors elect to have their witnesses testify at the preliminary hearing to provide the witnesses with practice testifying before trial and to provide the prosecutor with a preview of how the witness will perform.

While not minimizing the value of civilian police employees, they are not sworn, they do not go through a police academy, and they do not have the breadth of experience that sworn officers have. There is a reason preliminary hearing hearsay testimony is limited to sworn officers and there is no reason to broaden it as this bill tries to do. Preliminary hearings remain a critical stage of a criminal proceeding. More hearsay is not needed.

Prepared by: Stella Choe / PUB. S. /
1/11/24 11:12:37

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

SENATE RULES COMMITTEE SB 822
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

VETO

Bill No: SB 822
Author: Durazo (D), et al.
Amended: 9/8/23
Vote: 27

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 4/12/23
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas
NOES: Wilk

SENATE GOVERNMENTAL ORG. COMMITTEE: 8-5, 4/25/23
AYES: Dodd, Archuleta, Ashby, Bradford, Padilla, Portantino, Roth, Rubio
NOES: Wilk, Jones, Nguyen, Ochoa Bogh, Seyarto
NO VOTE RECORDED: Alvarado-Gil, Glazer

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

SENATE FLOOR: 31-8, 5/31/23
AYES: Allen, Alvarado-Gil, 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: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Glazer

SENATE FLOOR: 31-8, 9/14/23
AYES: Allen, Alvarado-Gil, 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: Dahle, Grove, Jones, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Glazer

ASSEMBLY FLOOR: 68-9, 9/14/23 - See last page for vote

SUBJECT: Workforce development: Interagency High Road Act

SOURCE: Author

DIGEST: This bill creates the California Workforce Innovation and Opportunity Act (Act) to assist state agencies in advancing high quality jobs with investments in the broadband, energy, resources, technology, and transportation sectors; expands access to those jobs through education and training; and requires specified state agencies to enter into a memorandum of understanding (MOU) with the California Workforce Development Board (CWDB) to coordinate economic and workforce development planning, analysis, and implementation activities, as well as incorporate high road evaluation metrics in the state agency procurement processes, contracts, and incentive programs.

ANALYSIS:

Existing law:

1) Creates the CWDB within the Labor and Workforce Development Agency to provide oversight and continuous improvement of the workforce system in California through policy development, workforce support and innovation, and performance assessment, measurement, and reporting.

2) Defines "high road" as a set of economic and workforce development strategies to achieve economic growth, economic equity, shared prosperity, and a clean environment. Strategies include but are not limited to, interventions that:

    a) Improve job quality and job access, including for women and people from underserved and underrepresented populations;
    b) Meet the skill and profitability needs of employers, and;
    c) Meet the economic, social, and environmental needs of the community.

This bill:

1) Charges the Department of Industrial Relations and CWDB, until January 1, 2030, with:

    a) Creating high road evaluation metrics, including but not limited to, a set of principles, procedures, scoring rubrics, and contract application metrics pertaining to contractor applicant (contractor) employment practices, including but not limited to, practices related to a contractor's employee

wages, benefits, and working conditions, and the contractor's record of compliance with labor laws.

b) Consulting with stakeholders and providing meaningful public input on the development and evaluation of high road metrics.

c) Tracking and reporting MOUs established pursuant to the Act.

2) Provides that upon request by a state agency, the CWDB shall establish MOUs to incorporate high road evaluation metrics in the state agency's procurement processes, contracts, and incentive programs.

3) Requires, by January 1, 2025, the following agencies to enter into an MOU with the CWDB to incorporate high road evaluation metrics in the state agency's procurement processes, contracts, and incentive programs: Department of Transportation, California Public Utilities Commission (CPUC), State Air Resources Board (ARB), State Energy Resources Conservation and Development Commission, Department of Technology, and Department of Resources Recycling and Recovery.

a) Requires state agencies developing MOUs to draw upon the expertise of the CWDB to ensure the state has the workforce and industry-based training partnerships necessary to meet its broadband, clean energy, and clean transportation goals while building pathways into the middle class and beyond for Californians who have been historically excluded from opportunity or shouldered a disproportionate share of climate environmental costs.

b) Provides that the MOUs must include advice and recommendations to ensure state agency policies and regulated programs create or support high-quality jobs in the broadband, energy, resources, and transportation sectors and expand access to those jobs for priority populations through high quality education and training.

Background

In 2019, Governor Newsom established the Future of Work Commission (Commission) to "study, understand, analyze, and make recommendations regarding the kinds of jobs Californians could have in the decades to come." The Commission's final report recommended support for efforts that promote job quality, citing a 2019 Gallup Poll stating fewer than half of California workers consider themselves in a "good job." The report suggested taking measures to

promote high road employers, which pay above minimum wage and provide other benefits, so that more employers would seek such designation. Since then, there have been several ongoing efforts to ensure contract, grant, and incentive program awardees provide equitable and sustainable workplace conditions, particularly in climate and transportation sectors, but to date, interagency coordination has not been implemented between these affected agencies.

The University of California Berkeley Labor Center report *Putting California on the High Road: A Jobs and Climate Action Plan for 2030*, recommends the California Workforce Development Board develop a technical assistance team to help agencies responsible for implementing climate policy as they seek to incorporate high road workforce interventions. The report found that agencies administering climate investments and policies have limited experience and training to assess when, where, and how to incorporate the tools and approaches to create high-quality jobs, prepare workers with skills, broaden career opportunities for workers from disadvantaged communities, and support those whose jobs may be at risk.

Public works construction jobs of a certain financial threshold include prevailing wage and labor standard requirements; however, investments in non-construction industries lack the same requirements and administrative enforcement to guarantee high quality jobs. For recent transportation related climate investments, these sectors include service, operations, maintenance, manufacturing (auto, battery, metal, cement, and wind and solar supply chain), mineral extraction, truck driving, transit operations, private passenger transportation, wildlands management, and forestry.

A March 22, 2023, joint informational hearing held by the Senate Committee on Labor, Public Employment and Retirement and the Senate Budget Subcommittee #5 on Corrections, Public Safety, Judiciary, Labor and Transportation found that while California agencies have some successful models on adherence to prevailing wage and other high-road workforce standards, it is necessary to ensure each state agency administering California taxpayer-funded contracts, procurements, and subsidies, and receiving federal funding, has clear and concise direction on the use of these investments to ensure high-quality jobs with strict labor standards are cultivated, created, and retained.

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

According to the Assembly Appropriations Committee:

1) Likely annual costs between approximately $171,000 to $341,000 to CWDB to enter into MOUs with the six specified state agencies, create high road evaluation metrics, and support other state agencies' MOUs (General Fund (GF)).

2) Minor and absorbable costs to the Department of Industrial Relations, as this bill's workload will primarily be undertaken by CWDB.

3) Costs of an unknown amount, potentially in the low millions dollars annually, to the six specified state agencies required to enter into MOUs with CWDB (GF or special fund). For example:

   a) ARB estimates annual costs of approximately $428,000 for two positions to develop policies for incentive program grantees to advance the objectives of high road employment requirements.

   b) Caltrans anticipates initial costs in the hundreds of thousands of dollars for additional one-time positions to set up the MOU and annual costs ranging from $1 million to $2 million for ongoing positions to implement the MOU. However, Caltrans notes the exact workload, which would likely include collecting requested data, updating contract provisions, and attending partnership meetings, is unknown until the scope and complexity of the MOU is finalized.

   c) CPUC anticipates ongoing costs of approximately $1.0 million. Although CPUC and CWDB entered into a similar MOU in 2020, CPUC notes this bill includes detailed requirements and a timeline for implementation beyond the scope of the MOU. The current MOU is also not required by law and can be terminated at any time.

SUPPORT: (Verified 10/18/23)

California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Labor Federation
California Teamsters Public Affairs Council
Engineers and Scientists of California, IFPTE Local 20, AFL-CIO
Unite Here International Union, AFL-CIO
Utility Workers Union of America, AFL-CIO

OPPOSITION: (Verified 10/18/23)

Associated Builders and Contractors of California

ARGUMENTS IN SUPPORT: California Conference Board of the Amalgamated Transit Union, California Conference of Machinists, California Teamsters Public Affairs Council, Engineers and Scientists of California, IFPTE Local 20, AFL-CIO, Unite Here International Union, AFL-CIO, and Utility Workers Union of America, AFL-CIO state "California has policies to ensure that funding for construction creates good jobs and community benefits. Yet, in the midst of seismic change in our economy – the greatest transformation since the Industrial Revolution, we lack standards and enforcement on funding in other industries. Our state's contracting should create good jobs in industries such as zero emission manufacturing, critical minerals extraction, truck driving, [transportation network company] driving, plant operations, transit operations, wind and solar supply chain manufacturing, glass, metal/cement manufacturing, wildlands management, and urban forestry."

ARGUMENTS IN OPPOSITION: The Associated Builders and Contractors California (ABC CA), which is opposed unless amended, states "ABC CA's apprenticeship programs use the National Center for Construction Education & Research (NCCER) curriculum. NCCER is a nationally recognized craft training and assessment organization. It was founded in 1996 to standardize training and provide industry-recognized credentials for those working in the construction, maintenance, and pipeline industries. A NCCER certification is one of the most prominent tools that the construction industry uses to verify the credentials of its workers. The NCCER curriculum is equivalent to the Multi-Craft Core Curriculum. Therefore, we respectfully ask to be included in SB 822, by amending the bill…"

GOVERNOR'S VETO MESSAGE:

> This bill creates the Interagency High Road Act and requires the Department of Industrial Relations (DIR) and the California Workforce Development Board (CWDB) to consult with stakeholders, including public input, on the development and evaluation of high road metrics. It also requires certain state agencies to enter into a memorandum of understanding (MOU) with the CWDB to incorporate high road evaluation metrics in the state agency's procurement processes, contracts, and incentive programs.
>
> I strongly support efforts to maximize state and federal funding opportunities while delivering high quality jobs that increase opportunity for

all communities and decrease disparities in historically disadvantaged areas. To further this work, I issued an Executive Order to accelerate clean infrastructure projects with an all-of-government strategy for planning and development and tracking progress toward equity goals that support disadvantaged communities - including good jobs. California's Infrastructure Strike Team is also driving collaboration across state agencies - including in the area of workforce training and development. Additionally, the Department of General Services and the Governor's Office of Business and Economic Development are supporting implementation of AB 2019 (2022), to advance equitable inclusion and utilization of small and diverse businesses in California's state procurement and contracting opportunities.

Additionally, I have signed several bills that ensure public contracting dollars are also investing in human infrastructure, including SB 150 that requires the Labor and Workforce Development Agency, Government Operations Agency, and the State Transportation Agency to convene relevant stakeholders and draft recommendations to ensure that investments maximize benefits to marginalized and disadvantaged communities. The recommendations are due by March 30, 2024.

It is advisable to allow time for those policies to be implemented before adding more requirements that may duplicate efforts.

ASSEMBLY FLOOR: 68-9, 9/14/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Davies, Flora, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, 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, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas
NOES: Megan Dahle, Dixon, Essayli, Vince Fong, Gallagher, Hoover, Mathis, Joe Patterson, Ta

NO VOTE RECORDED: Chen, Jim Patterson, Sanchez

Prepared by: Dawn Clover / L., P.E. & R. / (916) 651-1556
10/19/23 11:13:02

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

SENATE RULES COMMITTEE SB 842
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

VETO

Bill No: SB 842
Author: Bradford (D)
Amended: 9/8/23
Vote: 27

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

SENATE FLOOR: 26-6, 9/14/23
AYES: Alvarado-Gil, Archuleta, Ashby, Atkins, Bradford, Caballero, Dahle, Dodd, Durazo, Eggman, Glazer, Grove, Hurtado, Jones, McGuire, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Umberg, Wilk
NOES: Becker, Gonzalez, Menjivar, Smallwood-Cuevas, Stern, Wiener
NO VOTE RECORDED: Allen, Blakespear, Cortese, Laird, Limón, Min, Skinner, Wahab

ASSEMBLY FLOOR: 76-0, 9/13/23 - See last page for vote

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.

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 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 million barrels of crude oil per day. In 2021, 88 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 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, Chapter 1, Statutes of 2023-24 First Extraordinary Session), which required petroleum refiners to notify the CEC, under specified timelines, of any planned, unplanned or turnaround scheduled maintenance. SBX1-2 also directed 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 authorized 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, this 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 this bill was heard in the Senate Energy, Utilities and Communications Committee, the author expressed concern this 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 Appropriations Committee, 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 10/13/23)

Western States Petroleum Association

OPPOSITION: (Verified 10/13/23)

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.

GOVERNOR'S VETO MESSAGE:

This bill amends provisions of SB X 1-2 (Skinner), enacted during the 2022-2023 Special Session on high gasoline prices, related to the California Energy Commission's (CEC) development of regulations governing oil and gasoline refinery turnaround and maintenance. This bill would require the CEC to consult with the Department of Industrial Relations in addition to other entities already required by SB X 1-2, and to consider the existing statutory process safety management standards when evaluating ways to manage refinery maintenance.

I support the bill's intent to avoid any adverse impacts to the safety of employees and surrounding communities in the development of regulations. This is why SB Xl-2 already provides several safeguards to that effect, including a requirement to consult with the State Labor and Workforce Development Agency and labor and industry stakeholders. It would be imprudent to sign this bill so soon after the effective date of SB X 1-2 and before the CEC has fully contemplated implementation of the refinery maintenance portions of that law.

This has become more relevant than ever with the recent and somewhat sudden price increases of gasoline observed and shared publicly by our new Division or [of] Petroleum Market Oversight created with the new authorities provided by SB X 1-2. This bill could create a barrier to the

CEC 's ability to protect consumers from unnecessary gasoline price spikes caused by interruptions in petroleum supply.

ASSEMBLY FLOOR: 76-0, 9/13/23
AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, 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: Bauer-Kahan, Chen, Friedman, Muratsuchi

Prepared by: Nidia Bautista / E., U. & C. / (916) 651-4107
10/25/23 14:00:04

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

SENATE RULES COMMITTEE SB 847
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

VETO

Bill No: SB 847
Author: Dahle (R)
Amended: 6/19/23
Vote: 27

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

SENATE FLOOR: 31-5, 9/14/23
AYES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Bradford, Caballero, Cortese, Dahle, Dodd, Eggman, Glazer, Grove, Hurtado, Jones, Laird, Menjivar, Newman, Nguyen, Niello, Ochoa Bogh, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wilk
NOES: Blakespear, Durazo, Gonzalez, Min, Wiener
NO VOTE RECORDED: Limón, McGuire, Padilla, Stern

ASSEMBLY FLOOR: 74-0, 9/13/23 - See last page for vote

SUBJECT: Vehicles: motorcycle: safety helmet exception

SOURCE: Author

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.

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 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 (NHTSA) 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 NHTSA 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 10/10/23)

Legendary Sikh Riders
Sikh Legends of America
Sikhead Saints Motorcycle Club
One individual

OPPOSITION: (Verified 10/10/23)

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
Jakara Movement

GOVERNOR'S VETO MESSAGE:

> This bill would authorize the California Highway Patrol to adopt a regulation to certify motorcycle helmets that do not meet the safety requirements imposed by Federal Motor Vehicle Safety Standards in order to accommodate a driver's or passenger's religious beliefs.
>
> Motorcycle helmets save lives. The National Highway Traffic Safety Administration (NHTSA) requires that all motorcycle helmets sold in the United States meet Federal Motor Vehicle Safety Standard (FMVSS) 218. This standard defines minimum levels of performance that helmets must meet to protect the head and brain in the event of a crash. According to NHTSA, helmets that do not meet FMVSS 218 create a higher risk for skull fracture and brain injury when compared to certified ones. Approval of a helmet model

that does not comply with rigorous federal safety standards will undoubtedly impact public safety.

While I am sensitive to the protection of religious freedoms, I cannot support legislation that would have the unintended public safety consequences associated with this proposal.

ASSEMBLY FLOOR: 74-0, 9/13/23
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, 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, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Wicks, Wilson, Wood, Robert Rivas
NO VOTE RECORDED: Lackey, Ramos, Reyes, Rodriguez, Weber, Zbur

Prepared by: Jacob O'Connor / TRANS. / (916) 651-4121
10/19/23 10:46:01

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

SENATE RULES COMMITTEE SB 863
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 863
Author: Allen (D)
Amended: 1/3/24
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 6-1, 1/9/24
AYES: Glazer, Allen, Durazo, Menjivar, Newman, Umberg
NOES: Nguyen

SUBJECT: Measures proposed by the Legislature

SOURCE: Author

DIGEST: This bill allows the Legislature to specify the statewide election a constitutional amendment, bond measure, or other legislative measure submitted to the people shall appear on the ballot if the election specified in the proposal would occur at least 131 days after the proposal's adoption by the Legislature, as specified.

ANALYSIS:

Existing law:

1) Provides voters with the ability to propose changes to the California Constitution or statute via initiative or to repeal a recently passed law via referendum.

2) 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.

This bill permits the Legislature to specify the statewide election a constitutional amendment, bond measure, or other legislative measure submitted to the people shall appear on the ballot if the election specified in the proposal would occur at least 131 days after the adoption of the proposal by the Legislature, as specified.

Background

Types of Ballot Measures. Under existing law, the Legislature is permitted to submit to constitutional amendments, bond measures, or other legislative measures to voters for their approval and adoption. These are referred to as legislative ballot measures. Legislative ballot measures include amendments to the California Constitution (referred to as legislative constitutional amendments) and other legislative changes (referred to as legislative statutes), such as a bond measure. Legislative ballot measures are placed on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature.

Additionally, Californians also possess the ability to propose changes through the initiative and referendum process. For initiatives, these ballot measures are typically referred to as initiative statutes, such as bond measures or other statutory changes. For amendments to the California Constitution through the initiative process, it is referred to as an initiative constitutional amendment.

Finally, Californians also have the power to approve or reject statutes or parts of statutes, with the exception of urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual, current state expenses. These are referred to as referendum measures.

Initiative measures and/or referendum measures only appear at the statewide general elections.

Companion Bills. For legislative constitutional amendments, additional legislation is needed to move a proposed constitutional amendment from the election where the proposed measure is placed (i.e. the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature) to another election. These companion bills move through the legislative process and are signed or vetoed by the Governor.

For example, SB 789 (Allen, Chapter 787, Statutes of 2023) moved three measures that would have been placed on the ballot for the March 5, 2024 statewide primary election to the November 5, 2024 statewide general election.

Comments

1) *Author's Statement*. According to the author, "The Legislature has the ability to propose bonds, certain changes to statute, and amendments to the California Constitution to the voters for approval at a statewide election. State law currently allows the Legislature to specify in a bond or statutory measure at which statewide election it will appear before voters. However, the same

flexibility does not exist for constitutional amendments, which occasionally require accompanying legislation to determine ballot placement. SB 863 will conform these processes and allow the Legislature to specify a ballot in a proposed constitutional amendment."

2) *Need for the Measure.* In the materials provided by the author, the author notes Section 9040 of the California Elections Code requires constitutional amendments, bonds, and other legislative measures submitted to the voters to appear on the ballot of the next statewide election occurring at least 131 days after adoption by the Legislature. In the case of a bond or statutory measure, the Legislature can bypass this default timeline and instead place the proposal on a statewide ballot farther in the future. Bonds and statutory measures are subject to the same process as general legislative bills, must be signed by the Governor, and have the effect of law.

   The author also explains that constitutional amendments are subject to a different process as outlined in Article XVIII of the California Constitution. Legislative constitutional amendments must be approved by a two-third vote of both houses of the Legislature and are not required to be signed by the Governor. In effect, a constitutional amendment does not have the force of law and cannot bypass the default ballot referral timeline specified in Section 9040 of the Elections Code. All proposed legislative constitutional amendments are automatically referred to the next statewide ballot. If the Legislature wishes to move a proposed constitutional amendment to another ballot, it requires accompanying legislation calling a special election.

3) *Governor's Role.* Since legislative constitutional amendments are considered resolutions, instead of bills, the Governor does not consider those measures for a signature or veto. Under the provisions of this bill, a companion bill requiring a Governor's signature would no longer be needed. As a result, the Governor would no longer have a formal avenue for input when considering moving a proposed legislative constitutional amendment from one election to another.

Related/Prior Legislation

SB 789 (Allen, Chapter 787, Statutes of 2023) moved SCA 2 (Allen, Resolution Chapter 182, Statutes of 2022), ACA 1 (Aguiar-Curry, Resolution Chapter 173, Statutes of 2023), and ACA 5 (Low, Resolution Chapter 125, Statutes of 2023) from the March 5, 2024 statewide primary election to the November 5, 2024 statewide general election.

AB 4214 (Garcia, Chapter 1389, Statutes of 1974) changed, from 150 day to 131 days, the number of days which must intervene between adoption of a proposal by the Legislature and its submission to the people at a statewide election.

AB 1429 (Waxman, Chapter 1775, Statutes of 1971) provided that every measure submitted to the people by the Legislature shall appear on the ballot of the first statewide election occurring after 150 days after the adoption of the measure.

SB 292 (Moscone, Chapter 326, Statutes of 1968) provided that every measure submitted to the people by the Legislature shall appear on the ballot of the first general election occurring after 150 days after the adoption of the measure.

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

SUPPORT: (Verified 1/10/24)

None received

OPPOSITION: (Verified 1/10/24)

None received

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
1/11/24 11:12:39

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

SENATE RULES COMMITTEE SCA 1
Office of Senate Floor Analyses
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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 1/3/24)

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 1/3/24)

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
1/3/24 11:06:33

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

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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.

2) *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, 2015), ACA 7 (Mullin, 2013), ACA 2 (Furutani, 2009), ACA 17 (Mullin, 2005), and ACA 25 (Mullin, 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, 2020) would have lowered the voting age to 17 years olds. ACA 8 was referred to this committee, but was not heard.

ACA 10 (Low, 2017) would have lowered the voting age to 17. ACA 10 failed passage on the Assembly Floor.

ACA 7 (Gonzalez, 2016) would have prop 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, 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, 2004) would have lowered the voting age to 16, with all votes counting equally as a single vote. SCA 19 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, but subsequently was amended. instead to SCA 19 failed passage in the Senate Appropriations Committee.

ACA 23 (Speier, 1995) would have lowered 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 1/3/24)

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 1/3/24)

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:

1) 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.

2) 17-year-olds are not legally adults.

3) 17-year-olds are captive audiences in school.

4) High school students have little to no real-world experience to inform their voting choices.

5) 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
1/3/24 11:30:36

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

SENATE RULES COMMITTEE SCR 93
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 93
Author: Hurtado (D), et al.
Introduced: 9/6/23
Vote: 21

SUBJECT: President Joseph Biden's goal of ending hunger and increasing healthy eating and physical activity

SOURCE: Author

DIGEST: This resolution expresses the Legislature's support for President Joseph Biden's goal of ending hunger and increasing healthy eating and physical activity by 2030.

ANALYSIS: This resolution makes the following legislative findings:

1) More than 50 years since the first White House Conference on Food, Nutrition, and Health, the United States has yet to end hunger and is facing an urgent, nutrition-related health crisis, the rising prevalence of diet-related diseases such as type 2 diabetes, obesity, hypertension, and certain cancers.

2) The consequences of food insecurity and diet-related diseases are significant, far reaching, and disproportionately impact historically underserved communities.

3) President Joseph Biden announced a goal of ending hunger and increasing healthy eating and physical activity by 2030 so fewer Americans experience diet-related diseases while reducing related health disparities.

4) The Biden-Harris Administration National Strategy on Hunger, Nutrition and Health identifies ambitious and achievable actions, across five pillars, to advance the President's goal to address hunger and diet-related diseases.

5) The President's strategy calls for improving food access and affordability, including by advancing economic security, increasing access to free and nourishing school meals, providing Summer Electronic Benefits Transfer to

more children, and expanding Supplemental Nutrition Assistance Program (SNAP) eligibility to more underserved populations.

6) The President's strategy calls for integrating nutrition and health, including by working with Congress to pilot coverage of medically tailored meals in Medicare, testing Medicaid coverage of nutrition education and other nutrition supports using Medicaid Section 1115 demonstration projects, and expanding Medicaid and Medicare beneficiaries' access to nutrition and obesity counseling.

7) The President's strategy calls for empowering all consumers to make and have access to healthy choices, including by proposing to develop a front-of-package labeling scheme for food packages, proposing to update the nutrition criteria for the "healthy" claim on food packages, expanding incentives for fruits and vegetables in SNAP, facilitating sodium reduction in the food supply by issuing longer-term, voluntary sodium targets for industry, and assessing additional steps to reduce added sugar consumption, including potential voluntary targets.

8) The federal government cannot end hunger and reduce diet-related diseases alone. The private sector, state, tribal, local, and territory governments, academia, and nonprofit and community groups must act as well. The President's strategy details "Calls to Action" for all these entities to do their part. Taken together, these collective efforts will make a difference and move us closer to achieving the 2030 goal.

This resolution supports President Joseph Biden's goal of ending hunger and increasing healthy eating and physical activity by 2030.

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

SUPPORT: (Verified 1/9/24)

None received

OPPOSITION: (Verified 1/9/24)

None received

Prepared by: Russell Manning / SFA / (916) 651-1520
1/11/24 10:36:01

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

SENATE RULES COMMITTEE SCR 94
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SCR 94
Author: Dodd (D), et al.
Introduced: 1/3/24
Vote: 21

SUBJECT: Data Privacy Week and Day

SOURCE: Author

DIGEST: This resolution designates, in perpetuity, the fourth week of January as Data Privacy Week and the last Sunday of January as Data Privacy Day.

ANALYSIS: This resolution makes the following legislative findings:

1) The Legislature adopted landmark privacy legislation in 2018, the California Consumer Privacy Act of 2018 (CCPA), guaranteeing California consumers key privacy rights such as the right to access, delete, and stop the sale of their personal information.

2) In November 2020, over 9,000,000 Californians voted to approve Proposition 24, the California Privacy Rights Act, providing California consumers with the strongest privacy protections in the United States.

3) The passage of Proposition 24 created the California Privacy Protection Agency, the country's first regulator with full administrative powers focused on privacy and data protection.

4) The California Privacy Protection Agency is tasked with protecting Californians' fundamental privacy rights and promoting public awareness and understanding of these rights, including the rights of minors with respect to their own information.

This resolution:

1) Designates, in perpetuity, the fourth week of January as Data Privacy Week.

2) Designates, in perpetuity, the last Sunday of January as Data Privacy Day.

Related/Prior Legislation

SCR 9 (Dodd, Resolution Chapter 4, Statutes of 2023) designated the week of January 22, 2023, through January 28, 2023, as Data Privacy Week and January 28, 2023, as Data Privacy Day.

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

SUPPORT: (Verified 1/11/24)

CALPIRG
Consumer Federation of America
Consumer Reports
Electronic Frontier Foundation
Media Alliance
Oakland Privacy
Privacy Rights Clearinghouse
The Greenlining Institute

OPPOSITION: (Verified 1/8/24)

None received

Prepared by: Karen Chow / SFA / (916) 651-1520
1/11/24 11:29:17

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

SENATE RULES COMMITTEE SR 51
Office of Senate Floor Analyses
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THIRD READING

Bill No: SR 51
Author: Min (D)
Introduced: 1/3/24
Vote: Majority

SUBJECT: Korean American Day

SOURCE: Author

DIGEST: This resolution proclaims January 13, 2024, as Korean American Day.

ANALYSIS: This resolution makes the following legislative findings:

1) On January 13, 1903, the history of Korean immigration to America began when 102 courageous Korean adults and children landed in the State of Hawaii after venturing across the vast Pacific Ocean aboard the S.S. Gaelic. The hopes of these Korean immigrants for America, the land of opportunity, were quickly hindered by social, economic, and language barriers of unforeseen magnitude. These Korean immigrants did not falter in their pursuit of the American dream. Through perseverance and sacrifice, they established a new home in a new land and educated their children.

2) Between 1904 and 1907, approximately 1,000 Korean Americans entered the United States mainland from the State of Hawaii through the city of San Francisco, where the first Korean American political organizations and Korean language publications were established.

3) The city of Los Angeles is currently home to the largest population of Korean Americans in the entire United States, with more than 250,000 Korean Americans. Korean Americans are the largest and the fastest growing citizens of Orange County, making Orange County the second largest Korean population in any county in the nation.

4) While the first Korean immigrants to the United States fought and sacrificed to establish themselves, their children grew up to be patriotic citizens, many of whom went on to serve in the Armed Forces of the United States during World

War II and to make other important contributions to mainstream American society. The 1965 amendments to the Federal Immigration and Nationality Act (Public Law 89-236) opened the door for a new wave of Korean immigrants to enter the United States. Since its enactment, Korean Americans have become one of the fastest growing groups of Asian Americans in the United States.

5) Today, the number of people of Korean ancestry living in the United States has grown to more than 1,700,000, representing more than a 67-fold increase since 1960.

6) Korean American Day is celebrated on January 13 of each year, to not only commemorate the arrival of the first Korean immigrants to the United States but also to honor the Korean American's immense contributions to every aspect of society. Korean Americans have made important contributions as Californians in the fields of finance, technology, law, medicine, education, sports, media, the arts, the military, and government, as well as other areas.

7) Korean Americans have been at the forefront of Hallyu (Korean Wave) through K-Pop, K-Drama, and K-Foods, that have become an integral part of mainstream American society and enriched our very diverse State of California.

8) As the Korean American community prepares for a new era and creates new history, Korean Americans must instill in younger generations the proper appreciation for the courage and values of their forefathers, a deep sense of their roots, and pride in their own cultural heritage so that they may better contribute to the great State of California, which is rich with ethnic and cultural diversity.

This resolution proclaims January 13, 2024, as Korean American Day.

Related/Prior Legislation

The following are the most recent measures recognizing Korean American Day:

- SCR 10 (Min, Resolution Chapter 5, Statutes of 2023).
- ACR 111 (Choi, Resolution Chapter 11, Statutes of 2022).
- ACR 2 (Quirk-Silva, Resolution Chapter 53, Statutes of 2021).
- ACR 142 (Choi, Resolution Chapter 3, Statutes of 2020).
- SCR 78 (Pan, Resolution Chapter 6, Statutes of 2020).
- ACR 3 (Choi, Resolution Chapter 2, Statutes of 2019).

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

SUPPORT: (Verified 1/8/24)

None received

OPPOSITION: (Verified 1/8/24)

None received

Prepared by: Jonas Austin / SFA / (916) 651-1520
1/11/24 10:35:58

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